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Notes

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JOSE DE EVIA AND HIS ACTIVITIES IN MOBILE, 1780-1784

by

Jack D. L. Holmes*

The outstanding Spanish explorer of the Gulf of Mexico in the eighteenth century may well have been Jose de Evia.¹ Born in the small fishing village of La Grana on the north-western shore of Spanish Galicia in July, 1740, he was the son of Simon de Evia and Felipa de Gantes y Pravio de Evia. This was a family which had been closely connected with the sea for generations, and Jose's father had charted the Gulf coast of Louisiana as early as 1736. But it was Jose de Evia who was the outstanding explorer and whose accurate charts and soundings for the Gulf of Mexico virtually re-wrote the naval charts at the Spanish naval academies.²

The youth studied at the Royal Naval Academy of El Ferrol in Galicia and began his career as a pilot's assistant in 1755. While only a lad of eighteen he once took second-in-command of a ship when the officer became ill. For a number of years Evia cruised aboard ships in the Spanish squadrons plying the seas between Cadiz and the Gulf of Mexico. He tasted the fruits of naval victory in an engagement of 1760 against a British warship while serving in the coast guard of Cartagena de Indias.

Evia first arrived at New Orleans in 1771 aboard the

*This paper was read at the 49th Annual Meeting of the Alabama Academy of Science, Jacksonville, Alabama, April 14, 1972.

¹He was baptized Joseph Antonio de Evia. After he came to New Orleans in 1787, he changed the spelling of his name and was known henceforth as José de Hevia. His two sons, Francisco Hemeterio de Hevia and José Bernardo de Hevia, were both career officers in the Louisiana Infantry Regiment. Jack D. L. Holmes (ed.), *José de Evia y sus reconocimientos del Golfo de México, 1783-1796* (Madrid, 1968), 13, 21-22.

²Biographical data on Evia is based on *ibid.*, and this writer's following articles: "Gallegos notables en la Luisiana," *Cuadernos de Estudios Gallegos* (Santiago de Compostela, Spain), Fasciculo LVII (1964), 110-113; "Two Spanish Expeditions to Southwest Florida, 1783-1793," *Tequesta*, XXV (1965); and "Dramatis Personae in Spanish Louisiana," *Louisiana Studies*, VI (Summer, 1967), 177-180.

frigate *Volante*, a ship which would see action at Mobile nine years later. Louisiana's governor, Luis de Unzaga y Amezaga, sent Evia to the mouth of the Mississippi River to chart the several passes into that estuary and to check English corsairs which preyed on Spanish shipping. Naval historians have not emphasized the role of the Spanish-English disputes of the 1770's, but the "cold war" soon developed into hot combat when Spain declared war on England in 1779. Although much emphasis is given to the French fleet's contribution to American Independence during the Revolution, the only remark made by one study of the United States and world sea power regarding the campaigns of West Florida is the erroneous statement, "The Spanish were interested in strengthening their colonial posts, such as New Orleans, whose commander had daringly led an expedition against the British in the region of northern Lake Michigan. . . ."³

As a matter of fact, Spanish naval control of the lakes in Louisiana and West Florida—Pontchartrain, Maurepas and Borgne—was a key factor in allowing the land forces to capture the major British posts of Baton Rouge, Mobile, and Pensacola. Jose de Evia played an important role in these events. He had already demonstrated his bravery when an English sloop attacked the Spanish mail ship descending the Mississippi River. With a small boat and only sixteen men, Evia attacked and captured an English boat at the mouth of the Mississippi.⁴

Another English schooner had been sent in September, 1779, from Pensacola to reinforce the British Fort Bute de Manchac. Sixteen soldiers from the British 16th Regiment guarded the provisions, but Evia's launch had a crew of eleven marines and eleven sailors, and he successfully boarded and captured the enemy craft.⁵

³E. B. Potter (ed.), *The United States and World Sea Power* (Englewood Cliffs, N. J., 1955), 111.

⁴Service sheet (*Hoja de Servicios*) of Evia, March 30, 1793, Archivo-Museo Alvaro de Bazán Marina de Guerra (El Viso del Marqués, Spain), Seccion de Indiferente, *Expediente* (dossier) on Evia. Printed in the appendix of Holmes, *José de Evia* (hereafter cited as Evia's Service record), appendix.

⁵José de Evia to Luis Lorenzo de Terrazas, Goleta Inglesa at the German Coast, September 3, 1779, Archivo General de Indias (Sevilla), Papeles procedentes de la Isla de Cuba, legajo 12; Holmes, *José de Evia*, 7, 246.

The captured vessel was in poor condition, however, and it shipped water badly. The pumps were broken, but Evia directed one of his men to repair one of them and he ordered the prisoners to take turns at the single pump. In addition to the captain of the schooner, four sailors, seven soldiers and a sergeant had been captured. As he set sail for the German Coast of the Mississippi above New Orleans with his prisoners, the captured schooner leaked so badly that Evia ordered it ashore on Lake Pontchartrain. From several Tory plantations he rounded up eight old Negro slaves and added them to his prisoners-of-war. With three Spanish sentries guarding the prisoners at work on the pump, the schooner limped badly, but Evia directed it to the German Coast and turned over his prisoners to the commandant on September 3, 1779.⁶

Less than three weeks later, Louisiana governor, General Bernardo de Galvez, accepted the surrender of Baton Rouge and transfer of Natchez from the English commander.⁷ The next step was the capture of Mobile's formidable "Castillo," which was ably defended by Captain Elias Durnford. Galvez left New Orleans on January 14, 1780, but bad weather kept him near the mouth of the Mississippi until February 6. Hurricane-strength winds almost destroyed the Galvez squadron before he landed on Mobile Bay.⁸

In his naval squadron, Galvez had a motley fleet which included a merchant frigate, 4 settees, one packet-boat, two bringantines, the galliot *Valenzeula*, the brigantines *Galvez-Town* and *Kaulican*, and the war frigate *Volante*, whose commander was Jose de Evia.⁹ On February 9, 1780, as the Spanish squadron drew near the entrance to Mobile Bay, look-

⁶*Ibid.*

⁷Jack D. L. Holmes, *Honor and Fidelity, The Louisiana Infantry Regiment and the Louisiana Militia Companies, 1766-1821* (Birmingham, Alabama, 1965), 30-31.

⁸Bernardo de Gálvez to Diego Joseph Navarro, No. 234, confidential, Dog River (Rio de los Perros), February 27, 1780, and No. 247, Mobile camp, March 4, 1780, both in Archivo General de Indias, Papeles procedentes de la Isla de Cuba, legajo 1232, and translated in the *Despatches of the Spanish Governors of Louisiana* (W. P. A. translations and typescripts; Louisiana State Museum Library, New Orleans), Book 2, Vol. X, pp. 26-26A, 38.

⁹John Walton Caughey, *Bernardo de Gálvez in Louisiana, 1776-1783* (Berkeley, California, 1934), 174-175.

outs spotted a frigate about the same size as the *Volante*. It was an English frigate, and the Spaniards immediately gave chase. In the meantime, another English ship, a two-masted coaster or *quairo*, had been captured inside Mobile Bay by a well-armed Spanish cannon launch under the command of Ensign Juan de Riano. The prisoners revealed that the English merchant frigate which the Spaniards were chasing had sailed for Mobile from Pensacola five days earlier with provisions. It had only sixteen mounted cannon and a twenty-man-crew.¹⁰

On the morning of February 10th, the wind picked up sharply from the southwest, whipping the sea into large swells. The Spanish fleet moved toward the shelter inside Mobile Bay, and Evia's *Volante* was the first to cross the bar, following which was Galvez's brigantine. Once across the bar, the two ships gave chase to the English frigate, whose crew had already left it abandoned on a sandbar in the channel. Evia failed to notice this because his prow was to the wind, and he had the misfortune of seeing his own frigate crunch into the sandbar. The catastrophe was compounded as the *Galvez* and four smaller vessels likewise ran aground on the sandbar.

The storm continued, thus making rescue attempts virtually impossible. The *Galvez* was finally removed from the bar after a thirteen-hour struggle at one A.M., but so damaged that she shipped nine inches of water an hour. Two of the other smaller vessels were also freed, and the disgruntled Spaniards struggled to remove the frigate and two of the boats. For several days sailors, troops and workers struggled to free the *Volante*, but without success. Finally, on February 15th, Galvez gave orders that the 800 Spaniards should try to salvage as much from the wrecked and grounded boats as possible.

Driftwood from the floatsam found along the shore was collected, and Galvez directed the manufacture of scaling lad-

¹⁰Details on the loss of the *Volante* at the entrance to Mobile Bay are based on the diary of Gálvez's siege of Mobile, dated Mobile, March 18, 1780, Archivo General de Simancas, Seccion Guerra Moderna, legajo 6912. A very poor, incomplete translation with innumerable errors, is in the Mississippi Department of Archives and History (Jackson), Mississippi Provincial Archives, Spanish Dominion, and has been transcribed in Mrs. Corinne McN. Lee in *Deep South Genealogical Quarterly*, V (February, 1968), 163-176.

ders to be used against Fort Charlotte. The eight guns from the *Volante* were removed and placed in a small battery erected on the eastern tip of Mobile Point near the present-day site of Fort Morgan State Park. Evia, who had been named captain of the port of Mobile for the duration of the siege, took command of this small post with forty men of the line and sixty sailors. He also reported on the defenses he had set on Dauphin Island, which guarded the western approaches to Mobile Bay.¹¹

Captain Durnford agreed to the terms of capitulation drawn up by Galvez on March 12, 1780, and Mobile became Spanish.¹² The British prisoners of war were loaded aboard the brigantine *Kaulican* and sent under guard to Havana. "The Captain of the frigate," wrote Galvez, obviously referring to Jose de Evia, "will give you an account of these men."¹³

Evia also served as a courier between Galvez and the Spanish squadron in the Gulf under the command of Juan Bautista Bonet. He sailed the packetboat *San Pio* as far as the 29th parallel North Latitude, delivered the dispatches, and was returning to Mobile with the answers. As he neared Pensacola, Evia was pursued by two British launches and a brigantine. Realizing his slow-moving craft would soon be captured, Evia ordered it to lower a ship's boat or canoe and took to the shore, landing near the mouth of Perdido River. Here he left the boat and moved on land through hostile Indian territory until he reached safety at Mobile as the sun set.¹⁴

In writing of the officers he felt had served during the Mobile campaign with particular distinction, Galvez wrote of Evia that he "was intelligent and active," and he considered him worthy of promotion to the rank of frigate ensign.¹⁵ Evia's

¹¹José de Evia to Bernardo de Gálvez, Dauphin Island, March 22, 1780, Archivo General de Indias, Papeles procedentes de la Isla de Cuba, legajo 12; Holmes, *José de Evia*, 7, 243-244.

¹²Caughey, *Bernardo de Gálvez*, 181-182. The surrender document also appears in Archivo General de Simancas, Guerra Moderna, legajo 6912.

¹³Bernardo de Gálvez to Diego Josef Navarro, No. 252, Mobile, March 20, 1780, Archivo General de Indias, Papeles procedentes de la Isla de Cuba, legajo 1232.

¹⁴Evia's Service Record; Holmes, *José de Evia*, 244.

¹⁵Bernardo de Gálvez, "Account of the Officers which have been involved in the conquest of Mobile . . . and Promotions to which I consider them Entitled," n.p., n.d. (New Orleans, June, 1780?), Archivo General de Indias, Papeles procedentes de la Isla de Cuba, legajo 113.

promotion was approved on August 13, 1783, and he continued to hold the post of pilot first-class.¹⁶

Following the conquest of Mobile in 1780 and the glorious siege and capture of Pensacola the following year, Evia was transferred to the Royal Arsenal of Havana, but he did not find challenge in shore duty. Galvez realized that the British naval charts of the Gulf coast were inaccurate, and in order to draw up a new set of accurate charts, indicating the land-marks for mariners to follow in navigating the Gulf Coast, he named Evia to head a reconnaissance of the coast line from the Florida Keys to Tampico, Mexico.¹⁷

Aboard the small ship *El Comendador de Marsella*, Evia explored Tampa Bay and the west coast of Florida until forced by a seasonable hurricane in 1783 to return to Havana. The following year he resumed his voyage along the coast of Florida, Alabama, Mississippi and by 1786 he had charted the entire coast from Cape San Blas to Tampico.¹⁸

His description of Mobile Bay is far superior to that provided by the English mariner, George Gauld, who had traced the Gulf in 1769 and the early 1770's.¹⁹ Evia wrote of Mobile Bay in 1784:

The greatest depth of water over the Mobile bar, or rather Mobile Bay (because there is another bar at the entrance of the river next to the city), is only from fifteen to sixteen feet. The surest landmark for entering at the highest tide is to set the easternmost point of Dauphin Island on a course North by Northwest 4° West, and continue in this direction until Mobile Point lies a distance of four miles to the North, which shall be over the bar in seven or eight fathoms, but it soon drops to three, and at an-

¹⁶Evia's Service Record; Holmes, *José de Evia*, 239.

¹⁷*Ibid.*, 9-12.

¹⁸*Ibid.*, 29-190.

¹⁹Gauld's "A General Description of the Sea-Coast, Harbours, Lakes, & c.^a Of the Province of West Florida, 1769," is in the manuscript collection of the American Philosophical Society (Philadelphia), Vol. 917.59/G23. It is included in the full-length study of Gauld being written for the University of Florida Press by Captain John Ware of Tampa.

other sounding, it falls off again to seven fathoms on the inner side. You should always use caution because the difference in depth is of such a short distance, and the continually changing tides make it imprudent, especially in bad weather, for a ship drawing more than ten feet to seek its entrance. . . ."²⁰

Evia continued his description by pointing out the several streams flowing into Mobile Bay:

From Mobile Point to the fort and town it is eleven leagues to the North; the width of the Bay is generally from three to four leagues. From Mobile Point there is a creek which flows six leagues to the East, thus forming a narrow peninsula between this point and the sea. The River of Good Help (Rio de Buen Socorro or Bon Secour) flows into the bottom of this Bay, and Fish River and the Falls (El Salto), are along the northern perimeter of it, along which there are a large number of settlers.

On the western part of Mobile Bay there are also some rivers, but none of much consideration, with the exception of Fowl River (Gallinas), by which there is a small internal communication to the West and to that of Dog River (Los Perros), which flows into the bay about nine miles below the fort and town where the Spanish troops under the command of His Excellency the Count of Galvez, disembarked in the year 1780 and began the siege of that town.

Evia noted that Dauphin Island and Massacre Island were once joined and he observed that Pierre Le Moyne, Sieur d'Iberville, has named the latter for a "large mound of human bones found there on his first landing, but later it was called Dauphin Island in honor of the Dauphin of France in order to erase the unsavory idea of the name Massacre."²¹

²⁰Holmes, *José de Evia*, 67-71.

²¹On the early history of Dauphin Island see Jack D. L. Holmes, "Dauphin Island's Critical Years: 1701-1722," *Alabama Historical Quarterly*, XXIX, Nos. 1-2 (Spring and Summer, 1967), 39-63.

When he completed his reconnaissance of the Gulf of Mexico in 1786, Evia was rewarded with the appointment as captain of the port of New Orleans and commander of the Louisiana Coast Guard. He brought his wife and two sons—all natives of Havana—to New Orleans with him in 1787 and remained there, a zealous guardian of the Royal Treasury and a dedicated naval officer, until the 1803 transfer of Louisiana to the United States. He then returned to Havana, where he spent his declining years, happy in the knowledge that his excellent descriptions and charts were avidly studied by a new generation of pilots and mariners studying at the Royal Naval Academies of Spain.²²

The brief sketch of Evia's activities in and around Mobile Bay is indicative of what must be done by historians of early Alabama if they are to tell the complete story of the colonial period. Galvez's capture of Mobile in 1780 has hardly been given the emphasis it merits, and who among you has ever heard the name of Jose de Evia?

²²Holmes, *José de Evia*, 13-26.

BANK OF AUGUSTA v. EARLE:
CORPORATE GROWTH v. STATES' RIGHTS

by
Eric Monkkonen

Part I

Summary

The three cases known as the Alabama or Comity Cases have had a continuing, though changing, significance in American constitutional and economic history. The decision handed down by Taney marked the end of a legal conflict which had begun early in the Panic of 1837; the decision marked the beginning of the Court's stand on foreign corporations, the beginning of economic nationalism, and the beginning of the peculiar American attitude towards control of economic forces.

The case arose out of Joseph Earle's refusal in Mobile to pay a bill of exchange to the Bank of Augusta, Earle contending that out-of-state banking corporations were forbidden by Alabama's constitution, which gave the state bank a monopoly. Earle also tried the same trick on the New Orleans and Carrollton Railroad Company, a banking corporation. The Bank of Augusta brought suit in Circuit Court, and newly appointed Justice John McKinley of Huntsville decided in favor of Earle. His decision was based on two points: first, he agreed with Earle that the Alabama constitution prohibited out-of-state banks from doing business within the state; second, he argued that the international legal theory of comity did not apply and that corporations cannot operate outside the jurisdiction of the legislative body which created them (now known as the "restrictive theory" of corporations).

Not too surprisingly, after McKinley's decision, a William Primrose refused to honor a bill of exchange on the Bank of the United States, operating under a charter from the state of Pennsylvania. As most banks, including the Bank of Augusta, suspended payment during the Panic of 1837, a legal basis for refusing to pay on bills of exchange would have been

a boon to cotton factors and merchants. The Panic ended quickly, however; "flush times" returned; and Earle's device was no longer needed. The case went up to the Supreme Court on a writ of error, Justice Story noting that McKinley's decision had "frightened half of the lawyers and all the corporations of the country out of their proprieties."

The Court considered all three cases together and, although all involved touched on McKinley's first point, the Alabama constitution, the major center of the arguments and Taney's decision was the question of comity and the related problem of the "restrictive" and "liberal" theories of corporations. Briefly, the "restrictive" theory of corporations holds that the corporation has no extraterritorial existence; created as a legal entity, it cannot exist beyond the jurisdiction of its creating authority. This theory evolved in the seventeenth and eighteenth centuries as a corollary to the special, privileged nature of corporations. The "liberal" theory of corporations, on the other hand, holds that once chartered, the corporation may move from the area of jurisdiction in which it was created. Proponents of this theory, which is implicitly accepted today, admit its somewhat illogical basis—for it amounts to extraterritorial legislation—but point to its practicality. In 1839, the terms, "liberal" and "restrictive," were not applied this way, but the arguments before the court accepted and even defined these concepts.

Daniel Webster, arguing for the Second Bank of the United States, took the "liberal" point of view, contending that once created a corporation was free to move about and was in fact a citizen under the Constitution. This entitled corporations to the privileges and immunities clause, Art. IV, Sec. 2: "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Charles Jared Ingersoll argued, for James Earle, the "restrictive" theory:

Corporations are creations of municipal law, having no existence or power to contract whatever, until enabled so to do by a law, or other legitimate permission of the sovereignty wherever acting. Especially is this conservative principle indispensable as an undelegated right of these

United States. Otherwise the smallest member of this union may legislate for and govern all the rest.¹

The other arguments before the Court ran along the same lines, the major variation being the argument of D. B. Ogden which claimed comity was an implicit binding principle between states. The principle of comity (that one sovereignty honor another's laws if possible), though used in conjunction with the "liberal" theory of corporations, was really an independent argument which did not consider corporate law.

In his decision, Taney took advantage of the principle of comity to avoid confronting a choice between the "restrictive" and "liberal" theories. He denied that corporations were citizens and agreed that laws, including corporate charters, did not have extraterritoriality. But he held that comity was implicitly accepted by every state and, unless it was explicitly repudiated, the Court had to assume its existence.

Interpretations of the meaning of his decision have varied greatly due to its avoidance of issues and inherent ambiguity. After all, he rejected the "liberal" theory of corporations but accepted the "liberal" practice. This has led one recent commentator to plead for a revision of the theory and for an end to the deplorable difference between theory and practice. Other commentators see Taney's decision as a brilliant acceptance of the "liberal" theory of corporations and his conceding states the right to repudiate comity as a sensible approach to corporate regulation. At the time of his decision, Alabamians saw it as an encroachment upon their rights; Justice McKinley, in his dissenting opinion, saw the Court as imputing national power to the states. The old Federalists saw the decision as a boon to corporations; Justice Story congratulated Taney on the decision and said it did "honor" to Taney and the Court—no doubt thinking of the Federalist Marshall Court. Other recent writers have seen the case as laying the foundations for the non-regulatory state after the Civil War, while some see it as a causal factor in the growth of corporate capitalism. Finally, some see it as a concession, neither retarding nor creating institutional, economic, or legal change.

¹*Bank of Augusta v. Earle*, 13 Peters 580 (1839).

But the most significant import of the case is in its legitimizing and institutionalizing the concept of positive regulation. This position was hinted at by McKinley in his dissenting opinion:

. . . [the] Court having . . . conceded that Alabama might make laws to prohibit foreign banks to make contracts, thereby admitted, by implication, that she could make laws to permit such contracts. I think it would have been proper to have left the power there, to be exercised or not, as Alabama, in her sovereign discretion, might judge best for her interest or comity.²

In other words, McKinley is saying that there are two approaches to regulating corporations, one giving the state the power to forbid, the other giving the state the power to permit; or one requiring positive effort on the part of the state to regulate, the other having implied regulation, requiring positive effort to allow corporate action. I call the first the concept of positive regulation, the other, negative regulation. By approving the concept of positive regulation, Taney set the stage for continuing efforts of the state to police corporations, with laxness on the part of the state allowing often dangerous corporate freedom. Had the negative regulation concept been sanctioned, the corporation would be required to ask permission for all actions, a change which would put the state automatically in control of corporate action.

It can be seen, then, that the implications and long-range effects of this case are still with us, even though these effects change with the economy. And what was once a regulatory and egalitarian point of view has become an anti-regulatory and privileged position.

Part II

Cultural Context

There are three levels of cultural context within which to view *Bank of Augusta v. Earle*: the integrated commercial-

²*Ibid.*, p. 601.

political structure of Alabama as the participants themselves viewed it; the nature of institutional growth and change in the period from our perspective; and, finally, the broader patterns of economic growth and change, again seen from our point of view. The best, and most entertaining, way to find how the actors perceived their own environment may be to review the writings of the southwestern humorist, lawyer, and legislator, Joseph G. Baldwin.³ Widely known and appreciated by his fellow Alabamians for his wit and insight, Baldwin sees the economic world as one of "humbug" and deception, with paper money and corporations at its false base. Although William Garrett, the secretary of state of Alabama, is dead serious in his *Reminiscences*, his vocabulary inconsistency ("pecuniary revulsion" or "disruption" for panic) and his description of the carnival atmosphere connected with bank affairs convincingly demonstrate Baldwin's accuracy.⁴

There is, of course, much more literature available on the second level of explanation, which describes, from a modern point of view, the institutions of the period, especially those of corporations. C. G. Summersell points out the lack of banking facilities in Mobile (there were two), and one can infer the difficulties this created for the merchants and factors in the busy cotton-exporting port.⁵ Although there is an excellent study of Alabama bank history, there are no studies of Alabama's economy in this period; however, recent work done on other states can be of use in understanding the general patterns of local economies.⁶ For Missouri, James N. Primm has shown, in a short, well-written book, how, until 1836, corporations, as government agencies, were chartered mainly for public services, schools, and hospitals, "to facilitate the growth, prosperity, and welfare of the community."⁷ The pace of incorporation speeded

³Joseph G. Baldwin, *The Flush Times of Alabama and Mississippi* (Americus, Georgia: Americus Book Co., 1851).

⁴William Garrett, *Reminiscences of Public Men in Alabama, for Thirty Years* (Atlanta: Plantation Publishing Co. Press, 1872).

⁵Charles G. Summersell, *Mobile: History of a Seaport Town* (University of Alabama: University of Alabama Press, 1949).

⁶William H. Brantley, *Banking in Alabama, 1816-1860*, 2 vols. (Birmingham, Alabama: by the author, 1961-1967).

⁷James N. Primm, *Economic Policy in the Development of a Western State, Missouri, 1820-1860* (Cambridge: Harvard University Press, 1954), p. 35.

up in 1836, and a state bank was finally chartered in hopes of stopping currency drain and loss of profits to other states. The bank's key role in public policy indicates its political, economic, and public importance, a role approximated by that of Alabama's state-owned bank. It is small wonder, then, why Alabama felt threatened by out-of-state banks. The Bank of Augusta, with one-sixth of its stock reserved for the state, was a good source of income for Georgia, although even it had to suspend payments in the Panic of 1837.⁸ Louis Hartz' study of Pennsylvania provides an important example of a state losing control of its investments due to its consistent policy of creating a corporation and funding it but providing as little administrative help as possible.⁹ Those who were delegated to control the vast state enterprises were hopelessly overworked and without power; thus, even the state control implicit in charter grants was often unenforced.

Although these three state studies are helpful in getting an idea of the ways states interacted in their economies, there are other studies which describe institutional patterns. Guy S. Callender has established two reasons for the key functions of southwestern state banks.¹⁰ The economic growth of the "flush times" created a demand for capital; since there were no savings banks, taxation and state investment served this function. Further, the Southwest had the greatest demand and the most difficulty finding capital; only through state banks (which backed their credit with the prestige of the state) could northern and European capital be attracted. "Thus in the Southwest, where nature already provided an adequate system of transportation, the State banking enterprises formed the counterpart of the internal improvement movement of the North and East."¹¹ Bray Hammond points out that this pattern was not completely consistent: Missouri, Iowa, Texas, Oregon, Arkansas, and California prohibited banking, while Michigan, Wisconsin, Illinois,

⁸Milton S. Heath, *Constructive Liberalism: The Role of the State in Economic Development in Georgia to 1860* (Cambridge: Harvard University Press, 1954).

⁹Louis Hartz, *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860* (Cambridge: Harvard University Press, 1948).

¹⁰Guy S. Callender, "The Early Transportation and Banking Enterprises of States in Relation to the Growth of Corporations," *Quarterly Journal of Economics*, XVII (1902) 111-162.

¹¹*Ibid.*, p. 162.

and Indiana had free banking.¹² Though he is prejudiced in favor of the National Bank, Hammond's point does serve a corrective to the easily created rationality of the actor's understanding of banking—when the depression came, state legislatures often did the opposite of whatever they had been doing.

Besides the local studies of the mixed state economies and the banking studies, there are few good studies of corporations and the "Ameican system" of the public-private economic interface. John P. Davis traces the evolution of European and early nineteenth-century corporations from institutions " 'for the advantage of the public' as in 'the advancement of religion, or learning, and of commerce' " to private business institutions.¹³ In an interesting aside, Davis notes how "the system of law lingers behind society" in dealing with corporations, a partial explanation of the Court's difficulty in limiting corporate expansion. Economic efficiency, limited liability, and freedom from state interference were not characteristics of the colonial business corporation, according to Oscar and Mary Handlin.¹⁴ They were conceived of as an agency of government with privileges and power for serving a social function for the state—a partial reason, no doubt, for the fears of those who began to perceive the changing nature of corporations. Robert Lively best summarizes the recent work done on governmental interaction in the economy. King *laissez faire* is not only dead, he concludes, but "the hallowed report of his reign had all been a mistake."¹⁵ Lively points out the one major shortcoming of this work, a problem not easily solved—its failure to measure quantitatively the impact of government in the economy.

There has been one study on the third level of explanation, the description of broad movements in the economy which attempts to measure the effects of government intervention. Henry W. Broude found that quantitatively little money was

¹²Bray Hammond, *Banks and Politics in America: From the Revolution to the Civil War* (Princeton: Princeton University Press, 1957).

¹³John P. Davis, *Corporations: A Study in the Origin and Development of Great Business Combinations* (New York: G. P. Putnam's Sons, 1905), p. 211.

¹⁴Oscar and Mary Handlin, "Origins of the American Business Corporation," *Journal of Economic History*, V (1945), 1-23.

¹⁵Robert Lively, "The American System: A Review Article," *Business History Review*, XXIX (1955), p. 82.

spent by government agencies in the nineteenth century (about 2.4% of GNP in 1939).¹⁶ He feels that this small amount was highly significant in causing economic growth because of the way in which it was spent—in specific and direct support to selected industry; in risk taking, innovation, and bottleneck removing; and in creating a favorable economic climate and thereby raising the expectations of the private sector.

Two other studies on this third level of explanation help us establish the economic context of *Bank of Augusta v. Earle* and show how the case came at a critical point in the nineteenth-century's economic development. Anna J. Schwartz has computed the rates of corporate profit growth.¹⁷ She found that the period 1835 to 1859 had a higher growth rate than either that of 1859 to 1871 or 1871 to 1890 (which tends to support Douglass North's contention that the Civil War was an interruption to economic growth). This indicates the crucial importance of Taney's decision sanctioning interstate corporate expansion and growth. Douglass North emphasizes the key importance of the cotton export trade until the 1839-1843 depression.¹⁸ Because cotton was the major export, fluctuations in its price caused fluctuations in the American economy and, when the fall of cotton prices from 1837 on was joined by the drop in western land sales, a major depression set in. North's emphasis on interregional and international trade implies the crucial economic significance of foreign (or out-of-state) corporations and money transfer through bills of exchange. Because of all of these factors, we can see how Taney's decision could have easily wrecked the economy had it been against the plaintiff. We cannot claim Taney's decision caused the corporate and economic growth of the nineteenth century, but certainly it provided the foundation of federal policy and legitimized the basis of the American economy.

¹⁶Henry W. Broude, "The Role of the State in American Economic Development, 1820-1890," *The State and Economic Growth* (New York: Social Science Research Council, 1959), pp. 4-25.

¹⁷Anna J. Schwartz, "Growth Dividend and Interest Payments by Corporations at Selected Dates in the Nineteenth Century," *Trends in the American Economy in the Nineteenth Century* (Princeton: National Bureau of Economic Research, 1960).

¹⁸Douglass North, *The Economic Growth of the United States, 1790-1860* (New York: W. W. Norton and Co., 1966).

Part III

Specific Causes

Unfortunately, there is little material in which are discussed the issues of this case on a local and specific level. We shall never know if Earle was just trying to pull a slippery maneuver during the Panic of 1837 or whether the case represented the result of a long struggle in Alabama; the national importance of the case has obscured its origins and, if it were not for the broader patterns described above, the case would seem almost like a random occurrence. Garrett's *Reminiscences* and Baldwin's *Flush Times* make clear that the Panic of 1837 was perceived as a result of Jackson's specie circular. Perhaps Earle's maneuver was viewed as another attempt to fight back against the false paper corporations. Clearly, the Panic and the following depression caused some desperate economic behavior in the West; as Hammond has shown, the Westerners were not reluctant to try any expedient. Possibly the most important aspect of this case which has been neglected is in the attempt of Alabama to control corporations in its local economy, from the state bank chartered by the constitution in 1822 to the state's obvious lack of control over various external factors in 1848. If the experience of Pennsylvania, as described by Hartz, is at all typical, most states lost control of their quasi-public corporations; this loss of control needs more careful examination to see what kind of patterns were developing. And the image that emerges is of the states holding a tigerish economy by the tail.

Perhaps one of the most significant elements in this case is the newly appointed justice, John McKinley. His only biographer, Thomas Speed, notes that McKinley, a native of Culpepper County, Virginia, was a Huntsville resident who distinguished himself first in the United States Senate and later in the House. "He was," says Speed, "a man of high and noble aims, possessed of remarkable force and energy. In appearance he was tall and commanding, with a countenance that exhibited great strength of character, and wore an habitual benevolent expression. . . ."¹⁹ His dissent in *Bank of Augusta v. Earle*, which is,

¹⁹Thomas Speed, "United States Courts in Kentucky," *The Lawyers and Lawmakers of Kentucky*, ed., H. Levin (Chicago: Lewis Publishing Co., 1897), p. 150.

according to Charles Warren, a recasting of his Circuit Court opinion, remains a fitting monument to his life. (*Federal Cases* does not contain McKinley's Circuit Court decision.) Upholding the restrictive theory of foreign corporations, and the rights of Alabama, McKinley's decision radically ignored the dependence of the national economy on bills of exchange. He perceived a difference between Jacksonian principles and contemporary practice and opted in favor of principles; like Thoreau or Ann Hutchinson, he did so at a crucial moment, such that his decision threatened society; like Thoreau's or Hutchinson's, his decision could not have been allowed to stand.

Part IV

Case, Ruling, Court

All of the lawyers who argued this case before the Court were well known in their day, but, with the exception of Daniel Webster, their significance seems to have faded. The name of Charles Jared Ingersoll, Philadelphia poet, playwright, historian, and lawyer, was once a rallying standard for the enemies of large corporations, money powers, and other unpopular causes. Described to his grandson as "sharp and incisive as a hatchet," he was noted for his enmity towards John Sergeant and his eccentric penchant for wearing costumes of the revolution.²⁰ Little fame remains of this once controversial and eccentric character, possibly because lawyers are no longer our society's culture heroes.

Daniel Webster is, of course, an archetypal lawyer, and there is more material on him than on anyone else involved in this case. There is no modern scholarly edition of his complete works and letters. In his published letters, the only reference Webster makes to the Court before which he argued this case is a blase, "the business before the court is not now great, nor is the court itself what it has been [a reminder of the Marshall court's prestige]."²¹ His main concern is over his

²⁰William M. Meigs, *The Life of Charles Jared Ingersoll* (Philadelphia: J. B. Lippincott Co., 1897), pp. 307-310.

²¹Daniel Webster, *The Writing and Speeches of Daniel Webster* (Boston: Little, Brown and Co., 1903), Vol. XVIII, p. 42.

upcoming European trip! Maurice G. Baxter claims that this case was one of Webster's "most important banking and corporation cases," a contention which clearly reflects Baxter's, and not Webster's, point of view.²² Baxter also claims that politically the case represented an extension of Jackson's Bank War, an analysis which is probably incorrect (for several reasons: Taney's decision was for the plaintiffs, including Bidle's bank; Primrose's refusal to honor a bill of exchange came *after* the Circuit Court decision, indicating the potential results of a decision in favor of Earle; the decision effectively made any state bank a national bank; and the anti-nationalist states' rights point of view also argued for comity). Even for Webster, then, a really careful study of his relationship to this case is lacking.

Representing the Second Bank along with Webster was John Sergeant, the Second Bank's chief legal political advisor and Charles J. Ingersoll's enemy. Somewhat surprisingly, David B. Ogden, who represented the Bank of Augusta with a states-sovereignty-comity argument, turns out to be a well-known Federalist! In a famous argument, he once said, "We deny . . . there is any such thing as a sovereign state."²³

William J. Vande Gruff, who defended Primrose, is unmentioned in the *Dictionary of American Biography*. Probably Garrett refers to the same man in his *Reminiscences* as "William J. Vandegraff, Esq., formerly of Kentucky, a gentleman of profound acquirements."²⁴ Colonel Vandegraff also chaired an anti-specie suspension meeting in Mobile in 1837, shortly before payments were suspended.²⁵ Thus, Vandegraff, or Vande Gruff, enjoyed a local reputation even though the Supreme Court reporter couldn't spell his name right.

The composition of the Court in 1839 was truly Jacksonian; only Story, appointed by Madison, and McKinley, appointed by Van Buren, were not Jackson appointees. But the common

²²Maurice G. Baxter, *Daniel Webster and the Supreme Court* (University of Massachusetts Press, 1966), p. 182.

²³*Cobens v. Virginia*, 6 Wheaton 346 (1821).

²⁴Garrett, p. 191.

²⁵Brantley, I, 353.

assumption that Jackson was as anti-court as he was anti-bank is erroneous, according to Richard P. Longaker.²⁶ Jackson's often-cited "John Marshall has made his decision; now let him enforce it" is not typical of his Court attitude and was specific to the issue. Longaker concludes that Jackson kept the Court in tune with the times by his appointments and "showed guarded but genuine respect for the judiciary."²⁷ His enemy was John Marshall, not the Court, an important distinction which reminds us of the personal, non-issue oriented nature of early nineteenth-century politics.

The key to understanding the Jackson Court is Chief Justice Roger B. Taney. Although Taney's earliest biographer, Tyler, is obviously biased in favor of his subject, he had access to primary material and personal reminiscences; further, as a contemporary and friend of Taney's, even his style and attitude tell us much.²⁸ In giving the details of Taney's planter aristocracy upbringing, Tyler misses the point of an interesting pattern: for five generations the younger Taney sons had been purchased plantations by their fathers, but in Roger's generation this was no longer feasible or profitable; thus he went to college and became a lawyer, a sign of changing times and an industrializing economy. As a young Maryland lawyer and bank director, Taney made Luther Martin his model, sided with Burr, and later defended the infamous General Wilkinson for free, establishing his affinities with Jackson. Taney's upbringing and career should make one suspicious of any anti-aristocracy or anti-corporate feelings attributed to Taney, yet Carl Swisher claims that even after 1839 "Taney continued distrustful of corporations. . . ."²⁹ Swisher's error should instruct us to be more careful to distinguish, as Taney apparently did, between "great moneyed corporations" (bad) and normal, if still large, corporations (good). The ignoring of this dis-

²⁶Richard P. Longaker, "Andrew Jackson and the Judiciary," *Political Science Quarterly*, LXXXI (1956), 341-364.

²⁷*Ibid.*, p. 364.

²⁸Carl B. Swisher, *Roger B. Taney* (New York: Macmillan Co., 1935) is the standard biography of Taney; however, its treatment of Taney's early life and *Bank of Augusta v. Earle* is rather sketchy. More useful is Samuel Tyler, *Memoir of Roger Brooke, L.L.D.: Chief Justice of the Supreme Court of the United States* (Baltimore: John Murphy and Co., 1872).

²⁹Swisher, p. 386.

inction has continued through the literature from Charles Beard to Stuart Bruchey to Arthur S. Miller. At worst, this error has caused historians to see Taney's decision in *Bank of Augusta v. Earle* as paradoxical: "It was Taney's fate to usher in the corporate age, even though, before he came to court, he held strong disapproving views of corporate power."³⁰ Remembering that Taney was of the landed gentry and a Federalist bank director whose main legal specialty was business suits should help us keep some perspective.

Most commentators summarize Taney's decision rather than analyze it; the notable exception to this is Gerard C. Henderson.³¹ Henderson is *the* authority on the legal status of foreign corporations and most writers summarize his analysis and judgments as authoritative. Taney's decision in *Bank of Augusta v. Earle* is the "fountain head of the law of foreign corporations in America," according to Henderson.³² Taney steered a middle course between the arguments, denying a corporation's extraterritorial existence, yet circumventing this by implied consent through comity. Henderson criticizes Taney very mildly for not distinguishing between civil and functional status and instead claiming that the right of a corporation to sue implies a right of contract. "The Court did not grasp this occasion, as it might well have done, to lay down, or even consider, the distinction on which foreign jurists have laid so much stress, between functional and civil capacities."³³ Unfortunately, Henderson's comment is usually ignored by historians in favor of his comment that Taney had ample precedent to give corporations protection under the privileges and immunities clauses.

Part V

Immediate Reaction

Probably some of the best criticism of Taney's decision came immediately in the form of McKinley's dissenting opinion.

³⁰ Arthur S. Miller, *The Supreme Court and American Capitalism* (New York: Free Press, 1968), p. 44.

³¹ Gerard C. Henderson, *The Position of Foreign Corporations in American Constitutional Law* (Cambridge; Harvard University Press, 1918).

³² *Ibid.*, p. 42.

³³ *Ibid.*, p. 48.

Using the restrictive theory of corporations, McKinley claimed, "This is the first time since the adoption of the Constitution of the United States, that any federal Court has, directly or indirectly, imputed national power to any of the states of the Union."³⁴ McKinley's reaction was seconded by Governor Bagby of Alabama. His speech is briefly summarized in *Niles National Register*.³⁵ The Court's decision, he claimed, was a "palpable and direct encroachment upon the sovereignty of Alabama." Aside from a summary of Webster's argument, *Niles* is strangely silent on the case; its two references are so worded that one feels that the cases were familiar, but that the decision was foregone. One history of the Supreme Court cites many newspaper articles on the case but, on the basis of Webster's letter, the low-key reaction in *Niles*, and the reputation Governor Bagby had for long-winded oratory, one suspects that the case was not seen as a hot issue.³⁶

Two remarks in letters written by Justice Story stand as evidence of the fear McKinley's decision created and the relief of Taney's decision. Story, in a letter to Charles Sumner, of June 1838, says, "My brother, McKinley, has recently made a most sweeping decision in the Circuit Court of Alabama which has frightened half the lawyers and all the corporations of the country out of their proprieties. . . . What say you to all this? So we go!"³⁷ In another letter, written to Taney after the case, Story says, "Your opinion in the corporation cases has given very general satisfaction to the public; and I hope you will allow me to say that I think it does great honor to yourself as well as the court."³⁸ The only personal reaction on the losing side of the case, other than in McKinley's dissenting decision, is a letter written to Ingersoll by a Mr. Gilpin in which Ingersoll "was told in reply that he should not be worried at his inability to defeat a corporation, when the whole country had to bear them, as Sinbad had his burden."³⁹

One problem with all of the above evidence is that it

³⁴13 Peters 598 (1839).

³⁵*Niles National Register*, LVII (Dec. 28, 1839), 278.

³⁶Charles Warren, *The Supreme Court in United States History* (Boston: Little, Brown, and Co., 1922).

³⁷Warren, p. 50.

³⁸Tyler, p. 288.

doesn't really show the impact of the case on any other than those directly concerned with it. If Story is correct—that McKinley's Circuit Court decision did scare corporations dealing in interstate bills of exchange—then there should have been a measurable drop in this kind of exchange until Taney made his decision for the plaintiff. Because almost two full years lapsed between McKinley's decision and the Supreme Court decision, perhaps bills of exchange were made on shorter notice (during this period) so they could be recovered before any final decision was made. At any rate, citing a few newspaper articles and letters does not concretely establish any kind of immediate impact; here we need what Arthur S. Miller calls "impact analysis" of a quantitative nature.

Part VI

Long-Range Effects

(A *caveat*: Ogden, in his argument before the Court, pointed out the Court was deciding on what had been a common practice for fifty years—the buying of bills of exchange. Although there are certain qualifications to his point, it was essentially correct; thus, in one sense the Court merely legitimized a common practice, and talking about the decision's long-range effects can be somewhat meaningless.)

Charles and Mary Beard, in *The Rise of American Civilization*, give the Taney decision a misreading which has become traditional: "For practical purposes they [Jacksonian judges] declared the states to be sovereign." These "agrarian actions" wrought "havoc" in the economy.⁴⁰ Bray Hammond, not referring to this specific case, claims Taney ruled on "the side of *laissez faire* and rampant business individualism."⁴¹ Finally, in this same mode of looking at Taney and *Bank of Augusta v. Earle*, Stuart Bruchey, the well-known business historian, talks about corporate expansion, "corporate egalitarianism," and Taney. He concludes, "The extent to which the pre-Civil War rise of the business corporation can be attributed to the en-

³⁹ Meigs, p. 294.

⁴⁰ Charles and Mary Beard, *The Rise of American Civilization* (New York: Macmillan Co., 1927), p. 689.

couragement of the Taney Court is difficult to estimate, but it seems likely the new jurisprudence was influential."⁴² Although Bruchey judges the effect of the Taney Court as good and Beard and Hammond judge its effect as bad, all three agree that it caused growth of egalitarian, *laissez faire* corporatism.

Another way of looking at the long-range effects of the *Bank of Augusta v. Earle* decision is from the legal point of view. This treatment is best exemplified by Henderson's *Position of Foreign Corporations*. Henderson sees this as the key decision on foreign corporations, a beginning of the evolving "liberal theory" of corporations. Further, three dicta laid down by Taney have shaped all law on this subject since 1839. These are: 1) corporations are not citizens and do not come under the protection of the privileges and immunities clause of the Constitution; 2) he established the doctrine of implied consent by states not specifically forbidding corporations; 3) he proclaimed the power of a state to repudiate comity. Haines and Sherwood feel the decision brought "about what amounted to a radical and in effect a revolutionary innovation" in evolving this aspect of the "liberal theory" of foreign corporations.⁴³ A leading legal theorist maintains that there is still a clear divergence between concept and treatment of corporations stemming from the *Bank of Augusta v. Earle* decision. The restrictive theory of a corporation's non-extraterritoriality is still a valid concept, he says, while a liberal theory of practical extraterritoriality guides judicial decisions, "a continued evasion and circumvention through a fictional technique of the traditional doctrine enunciated by Taney."⁴⁴ The author feels that theory should be brought into alignment with practice, a position implied by Henderson. Thus, all of these authors feel Taney's decision forms the legal basis for modern treatment of foreign corporations, and they all wish he had been more bold in adopting the liberal theory.

⁴¹Hammond, p. 337.

⁴²Stuart Bruchey, *The Roots of American Economic Growth, 1607-1861: An Essay in Social Causation* (New York: Harper and Row, 1965), p. 139.

⁴³Charles G. Haines and Foster H. Sherwood, *The Role of the Supreme Court in American Government and Politics, 1835-1864* (Berkeley: University of California Press, 1957), p. 56.

⁴⁴M.B.R., "The Adoption of the Liberal Theory of Foreign Corporations," Association of American Law Schools, *Selected Essays on Constitutional Law: Bk. 3, The Nation and the States* (Chicago: The Foundation Press, 1938), p. 1491.

Another group of scholars sees in Taney's decision the foundations of corporate growth in the nineteenth century. Although he does not refer specifically to *Bank of Augusta v. Earle*, J. Willard Hurst says the total effect of Taney's decisions regarding corporations was that the "law lent its weight to the thrust of ambitions."⁴⁵ One author claims that the decision encouraged the "commercial harmony" of the country while the long-range result "was decidedly to encourage corporate expansion."⁴⁶ Arthur S. Miller notes in his preface the lack of "impact analysis" (the difference a decision makes in business behavior) and then goes on to trace two kinds of political-economic policies of the Court. He thinks that up to the Civil War the Court promoted internal growth, while after the war it gradually changed to regulating. Thus, though he sees Taney as helping economic growth, the effects of his decisions are not as long-ranging as the more legalistic point of view believes. The specific case of *Bank of Augusta v. Earle*, in Miller's view, is of interest only to historians, and he notes it is not mentioned in recent legal textbooks. He contends that the principle of state repudiation of comity was meaningless because states were promoting any kind of economic expansion.⁴⁷ Kent Newmeyer sees the decision as "a concession to the realities of American economic life," operating as neither a causal nor a retarding factor in the economy.⁴⁸ And, of course, Stuart Bruchey's judgment, cited before, stands also with this group, Bruchey emphasizing egalitarian opportunity and the growth of corporations.

Finally, two writers on this case hint at its aspects in legitimizing the concept of positive regulation. Newmeyer, in discussing the Marshall Court, claims it laid the "legal foundation" of the "promotional, non-regulatory state of post-Civil War America."⁴⁹ Alfred H. Kelly and Winfred A. Harbison see the case as "socially beneficial, since there was as yet practically no federal regulation of interstate commerce" and the

⁴⁵J. Willard Hurst, *Law and the Conditions of Freedom in the United States* (Madison: University of Wisconsin Press, 1956), p. 15.

⁴⁶Baxter, p. 192.

⁴⁷Miller, pp. 35-44.

⁴⁸R. Kent Newmeyer, *The Supreme Court Under Marshall and Taney* (New York: Thomas Y. Crowell Co., 1968), p. 47.

⁴⁹*Ibid.*, p. 81.

case resulted in some state regulation.⁵⁰ I would disagree with this point, claiming that, in fact, Taney's implied comity doctrine introduced the concept of positive regulation which has been responsible for the continuing difficulty in controlling corporate behavior. Thus, corporate behavior is implicitly sanctioned, while regulation has become, at best, a rear-guard attempt to follow the economy.

⁵⁰Alfred H. Kelly and Winfred A. Harbison, *The American Constitution: Its Origins and Development* (New York: Norton, 1963), p. 348.

FUSION, CONFUSION, DEFEAT, AND
DISFRANCHISEMENT:
THE "FADEOUT OF POPULISM" IN ALABAMA

by

Karl Louis Rodabaugh

The inauguration of the arch-conservative Democrat William C. Oates as Governor of Alabama in late 1894 did not extinguish the political fires that had been burning in the state since the entry of the Farmers' Alliance into politics in 1890. Soon after taking office, Oates announced that he would not seek another term and declared his candidacy for the Senate seat of James L. Pugh, whose term was to expire in 1896.¹ Oates's actions spurred Joseph F. Johnston, beginning early in 1895, vigorously to pursue the 1896 Democratic gubernatorial nomination. While Johnston canvassed the state for support as a free silver Democrat, the dissident groups led by Reuben F. Kolb in recent elections, now united as the Peoples' Party, sought fusion with the Republicans. Before Alabama politics, already complex, was muddled by national fusion of Democrats and Populists behind William Jennings Bryan and free silver, Populists in the state made a final major attempt to defeat the Democracy. The attempt failed, but briefly during the campaign Populists and Republicans cooperated more than ever before and made an insipid bid for Negro votes. The Democrats, united under Johnston's leadership, stole much of the Populists' rhetoric, reverted to their traditional strong stand on white supremacy, and finally emerged as the only party of any consequence in the state. A few years later they disfranchised virtually all blacks and many poor whites.

Although it was not an election year, 1895 was critical in Alabama politics. Populists held one-third of the seats in both houses of the state legislature, and of nine Alabama Congressmen two were Populists and two were Republicans who had been nominated on fusion tickets. Kolb, who only recently had abandoned his pose as the legitimate governor of the state and had announced that he never again would seek public office, still was publicizing Democratic frauds committed in

¹Birmingham *State Herald*, November 10, 1895.

the last two gubernatorial elections. The economic situation remained depressed, as it had throughout the nineties, with an increasing number of business failures making poignant the pall of labor strife hovering over the mineral district. While farm prices were less than half those of the mid-eighties, President Cleveland's conservative financial policies offered no relief to the South. As a result, both of Alabama's United States Senators, Democrats James L. Pugh and John T. Morgan, and three of the state's five Democratic Congressmen, opposed Cleveland's financial policies. It was inevitable that the political philosophy of the Alabama Democracy would be adjusted to fit the times, for "only drastic changes in policy would prevent numerous disillusioned voters from succumbing to Populist appeals of currency and banking reform, . . . guarantees of better working conditions, and fair election practices."²

The free silver issue had not been important in Alabama in 1892 and 1894, but the question no longer could be ignored after 1895. During that year, free silver advocates held conferences in Memphis, Tennessee, and Washington, D. C., and set in motion a drive to capture the Democratic National Convention in 1896.³ While travelling across the nation in 1895 popularizing the free silver issue, Nebraska Congressman W. J. Bryan stopped in Mobile to debate the currency issue with Alabama Congressman Richard H. Clarke, a sound-money Democrat.⁴ Milford W. Howard, Populist Congressman from the Alabama seventh district, introduced free silver bills in Congress and declared that the poor farmers suffered the worst effects of Cleveland's "evil" financial policies. Howard, moreover, refuted the theory that overproduction was the source of economic distress and blamed the hard times on the gold standard and on the manipulation of the nation's money supply by a small group of men.⁵ Aware of the growing appeal of free

²Allen J. Going, "Critical Months in Alabama Politics, 1895-1896," *Alabama Review*, V (October, 1952), 272-273; hereafter cited as "Critical Months."

³C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge, La., 1951), 280-281.

⁴John Bunyan Clark, *Populism in Alabama* (Auburn, Ala., 1927), 165.

⁵David Alan Harris, "The Political Career of Milford W. Howard, Populist Congressman From Alabama" (unpublished M.A. thesis, Alabama Polytechnic Institute, 1957), 75-78, hereafter cited as "Howard." Howard offered a resolution for the impeachment of Cleveland, but the House refused to consider it.

silver to the voters, Henry D. Clayton, a prominent Alabama Democrat, advised his party to endorse the issue in order to prevent the Populists from making it the catalyst in a formula for victory.⁶

During the spring of 1895 free silver Democrats, with Johnston as their champion, were rapidly increasing their numbers in the state. Johnston, who saw free silver as the binding force needed to reunite the Democratic party, formed free silver groups among Democrats and spoke throughout Alabama in favor of currency reforms. He admitted that prevailing conditions were bad, but sought changes through the medium of a united Democratic party under his guidance. While calling attention to the low prices of land, labor, and agricultural and industrial products, Johnston declared that free silver would act as a boon to farmers, laborers, and debtors by raising prices and forcing down the comparative value of debts. The creditor class, Johnston said, opposed any increases in the currency because they wanted to preserve the low prices of land, labor, and farm products and the relatively high value of money. Johnston, seeking to draw into his movement those Democrats who had supported Kolb in recent elections, organized a conference of all Democrats, regardless of past political associations, who favored free silver and an "honest" Democratic party. When the conference met in September, Senator Pugh attended, and Senator Morgan sent the assembly a letter reiterating his support of free silver. The Populists, however, failed to take Johnston's bait and refused to participate.⁷

Johnston's attempt to wed the Democracy to free silver was not received favorably by all elements of the party. If the free silver faction captured the party machinery, warned the *Birmingham Age-Herald*, a split would result that would produce a state of affairs in Alabama similar to Reconstruction. The *Age-Herald* labeled free silver a fraudulent scheme perpetrated by disappointed office-seekers to create an issue that they could

⁶Joseph Rogers Hollingsworth, *The Whirligig of Politics: The Democracy of Cleveland and Bryan* (Chicago, 1963), 56.

⁷*Birmingham Age-Herald*, September 12, 11, 10, 1895; Lorena Dale Parrott, "The Public Career of Joseph Forney Johnston" (unpublished M. A. thesis, University of Alabama, 1936), 15-17, hereafter cited as "Johnston"; Going, "Critical Months," 274.

use to gain power and to herd loyal Democrats into the ranks of the People's Party.⁸ In addition to the *Age-Herald* Johnston's growing free silver faction was firmly opposed by Governor Oates, Congressman Clarke, the *Montgomery Advertiser*, and the *Mobile Register*.⁹

Johnston announced his candidacy, November 9, 1895, as a free silver Democrat, and promised to produce harmony in the party by opening the primaries to those Democrats who had voted for Kolb in 1892 and 1894. In addition, he called for better roads, better schools, a national candidate pledged to free silver, and the "redemption" of those white counties that had voted against the Democracy in the last national election.¹⁰ Although few Democrats realized it at the time, Johnston was leading the state party away from the working alliance with eastern conservative Democrats, who were led by Cleveland, and toward an understanding with dissatisfied agrarians and laborers in Alabama. To insure press support, Johnston purchased the *Birmingham Age-Herald*, changed its name to the *State Herald*, and made it the organ of the free silver Democrats. The *State Herald* then endorsed Johnston and attacked Oates, Clarke, the *Advertiser*, and the *Register* for endangering white supremacy by making likely a party split due to their opposition to the determination of the "majority" of Democrats to support free silver.¹¹

By January, 1896, Johnston's free silver faction controlled the party, but outmaneuvered sound-money Democrats were yet able to force an intra-party battle for the nomination. The pro-Johnston Democratic State Executive Committee opened the primaries to all voters pledging to support the party's candidates in the August state elections, thereby clearing the way for many former Kolb supporters to back Johnston in the primaries.¹² Although the committee's action assured Johnston

⁸*Birmingham Age-Herald*, September 6, 12, 1895.

⁹Going, "Critical Months," 273; *Montgomery Advertiser*, February 27, 1896; *Mobile Register*, March 29, 1896.

¹⁰Parrott, "Johnston," 18-19, 28.

¹¹Going, "Critical Months," 272-274; *Birmingham State Herald*, November 10, 1895.

¹²*Montgomery Advertiser*, January 22, 1896. As early as January, 1894, Johnston felt that he would receive support from Kolb's followers in any Democratic nomination race. See: Johnston to McKee, January 19, 1894, Robert McKee Papers (Alabama Department of Archives and History, Montgomery).

of the nomination, sound-money Democrats, backed by the *Advertiser* and the *Register*, put up Richard H. Clarke for governor. The *Advertiser* called Johnston a weak candidate without any issues upon which to stand, but simultaneously criticized him for the very issues he raised. Johnston's policies, warned the *Advertiser*, would allow groups critical of Cleveland's administration and in favor of free silver to enter and to dominate the Democratic party.¹³ The *Register* accused Johnston of being in league with Republicans, Populists, and "Kolbites," and claimed that his nomination would mean a free silver platform for the party, a free silver senator for the state, a depreciated currency, and an end to any hope of prosperity.¹⁴ In spite of the attacks of the *Advertiser* and the *Register*, and an eleventh hour effort by Clarke's supporters to create the impression that Kolb favored Clarke, Johnston carried the former Kolb counties by large margins in the primaries and went into the state convention with three times as many delegates as his opponent. In April the convention nominated Johnston on the first ballot and adopted a platform that advocated free silver and committed the party to serve the interests of the common people of Alabama. Johnston promised to maintain honesty in the state elections.¹⁵

While Johnston was leading the Democratic party into the free silver movement, Kolb tried to accomplish a similar political feat with regard to all whites in Alabama, but he met with different results. With the aid of Daniel S. Troy, an influential free silver Democrat, Kolb organized a conference of all whites favoring free silver and honest elections. At the conference—to be held in November, 1895—Troy hoped to unite the Populists and the Democrats behind the free silver issue; and many Democrats were willing to follow his lead. But Troy died before the conference met, and without his leadership the meeting developed into a Populist gathering. The Populists, influenced by the assumption that Johnston's free silver faction would gain control of the Democracy, concluded that uni-

¹³Montgomery *Advertiser*, February 27, 1896.

¹⁴Mobile *Register*, March 29, April 8, 1896. The *Register*, March 5, 1896, said that farmers would suffer if free silver were adopted, and cited the example of Mexico, a silver standard nation, as proof that prices remained higher under the gold standard.

¹⁵Parrott, "Johnston," pp. 29, 32, 25; Harris, "Howard," p. 85.

fication with the Democrats would be impossible and turned to discussions of cooperation with the Republicans and of the fair elections issue. Before adjourning, the conference appointed Kolb, Albert T. Goodwyn, and P. G. Bowman to a committee that was empowered to seek Populist-Republican fusion.¹⁶

Kolb's conversion to a position in favor of fusion had been only a recent development. Earlier the *Wetumpka Reform Advocate*, edited by Goodwyn's son, had criticized him sharply for opposing fusion.¹⁷ Reversing his position at the Populist free silver conference, he announced that he would support the Populists even if, as a result of fusion, they ran a sound-money Republican.¹⁸

Opposition to fusion by many party members opened a wide breach in the Populist ranks. Congressman Howard, S. M. Adams, A. S. Hobson, and other leading Populists argued that Republican interest in a national victory would prevent any agreement on the money question, while Republican indifference to fusion would cause the GOP to demand a much higher price for cooperation than in the past.¹⁹ Hobson predicted that the People's Party would be ripped apart if Republicans received places on the state ticket as part of a bargain.²⁰ Many other Populists threatened to support Johnston if their party fused openly with the Republicans.²¹

The Republicans, suffering from internal difficulties produced by a national party battle for the 1896 presidential nomination, failed to jump at the chance for fusion. Factions favoring either William McKinley or Thomas B. Reed were jockeying for position in a fight to control the Alabama delegation to the 1896 Republican National Convention. The group led by Robert A. Moseley, chairman of the GOP state executive committee, supported Reed and responded favorably to Populist proposals

¹⁶Birmingham *Age-Herald*, September 6, 1895; Birmingham *State Herald*, November 10, 13, 1895; Goins, "Critical Months," pp. 274-275.

¹⁷William Warren Rogers, *The One-Gallused Rebellion: Agrarianism in Alabama, 1865-1896* (Baton Rouge, La., 1970), 297, 300.

¹⁸Birmingham *State Herald*, November 10, 1895.

¹⁹*Ibid.*, April 23, 1896.

²⁰Montgomery *Advertiser*, April 2, 1896.

²¹Birmingham *State Herald*, December 8, 1895.

for fusion on the condition that Republicans would receive places on any fusion state ticket. But Moseley's faction had to contend with a group led by William Vaughn, who sought to replace Moseley as the GOP state boss. The Vaughn Republicans favored McKinley, opposed fusion, and demanded a separate GOP state ticket. Although William Stevens, the leader of most of the Negro Republicans in the state, supported Vaughn, Stevens' black Republican followers split their support between the two groups. Before the Spring of 1896 no faction could gain a balance of power.²²

In February, 1896, Kolb and Moseley, meeting in Washington, D. C., to discuss fusion, reached a tentative agreement that was contingent upon official acceptance by the Populist and Republican state conventions. The agreement stipulated that Albert T. Goodwyn would head a fusion state ticket including Republicans, and that in the event of a victory in the national election Populists and Republicans would divide the state's electoral votes. At a meeting held in Birmingham later in the same month, both the Populists and the Moseley Republicans endorsed the fusion agreement. The Vaughn Republicans, however, failed to attend.²³

On April 28 the Populists gathered in Montgomery for their state convention. All delegates were white.²⁴ With the Kolb-Goodwyn leadership spurring the convention to action, fusion with the Republicans was accepted quickly by a vote of 262 to 172. Because S. M. Adams had resigned previously as chairman of the Populist State Executive Committee to protest the inevitability of fusion, George B. Deans of Shelby County was chosen as his successor.²⁵ The official acceptance of fusion prompted Philander Morgan, Populist brother of Senator Morgan, to return to the Democratic party.²⁶ As the choice of the anti-fusion Populists, the name of Gratton B. Crowe of Bibb County was placed in nomination by Congressman Howard,

²²Harris, "Howard," 84; Going, "Critical Months," 276, 276n.

²³Harris, "Howard," 83-84. Thomas B. Reed reportedly advised his supporters in Alabama to accept fusion with the Populists.

²⁴Mobile Register, April 29, 1896.

²⁵Harris, "Howard," 86, 83.

²⁶Going, "Critical Months," 277.

but upon Crowe's request his name was withdrawn.²⁷ Then Goodwyn, whose candidacy was officially less than one week old, was nominated without further opposition. Two vacancies were left on the state ticket to await action by the Republicans, who were expected to accept fusion.²⁸ The Populist platform, which bore a close resemblance to the 1894 platform of Kolb's Jeffersonian Democrats, proclaimed that the fair elections issue was the primary concern of the party. Demands were made for the free coinage of silver and for a "revenue" tariff to protect farmers, miners, and other workers from cheap foreign labor and products.²⁹

To make the fusion agreement a political reality and to preserve the Republican party, Moseley's faction was forced to compromise with the Vaughn Republicans. This was made necessary by Vaughn's success in attracting the support of the majority of white Republicans.³⁰ Both factions held state conventions at the same time and in the same city as the Populists, but the nature and course of the Moseley convention made clear Vaughn's ascendancy as the new power in the party. During an all night conference between the two factions Moseley agreed to withdraw from the race for chairman of the state executive committee. In a unified convention session held the next day, the Republicans chose Vaughn to succeed Moseley as state boss, divided the delegates to the national convention between the Moseley and Vaughn factions, and nominated two free silver Republicans to run on the fusion state ticket with Goodwyn and the other Populist nominees.³¹

When the candidates and the party platforms finally were known, the *Montgomery Advertiser* opened the Democratic campaign by asking, "what reason is there for the continued existence of the Populist Party?"³² Since the Democratic party had "gone over to the Populist platform," the *Advertiser* reasoned,

²⁷Louise Goodwyn Mustin, "Albert Taylor Goodwyn" (unpublished M. A. thesis, University of Alabama, 1936), 63-64, hereafter cited as "Goodwyn."

²⁸*Mobile Register*, April 29, 1896.

²⁹*Montgomery Advertiser*, April 29, 1896.

³⁰Going, "Critical Months," 276n.

³¹*Ibid.*, 277; Harris, "Howard," 85-86.

³²*Montgomery Advertiser*, April 24, 1896.

the Populists should "return the compliment by coming over to the Democratic nominees [.]'"³³ Ardent Populists might not have agreed with the *Advertiser's* line of reasoning, but they would have been forced to admit that the Democratic party, indeed, had "gone over to the Populist platform." The Democrats, unsure of their new, untested platform, failed to emphasize issues, such as free silver, that they had adopted in common with the Populists, and preferred to campaign on old, familiar issues.

While attacking Populist-Republican fusion, the Democrats raised the question of white supremacy. The fusionists, called the "Repopnig" party by the *Mobile Register*, were accused of plotting to use the Negro—"the protege and tool of the white Republicans and the aforetime bete noir [sic] of the Populists of the Kolb stripe"—to bring Radical Republican rule to Alabama.³⁴ White men, declared the *Advertiser*, "will hesitate long before following Goodwyn and Co. into the Radical Camp."³⁵ Johnston, who sought to make political discussions center on the past records of the Democratic and Republican parties, raised traditional Reconstruction issues, such as the "excessive" taxes levied by Radical Republican governments, and reminded the voters of the Democracy's role in the redemption movement.³⁶ The Democratic press and pro-Johnston speakers, including former governor Thomas G. Jones, labeled Goodwyn a "nigger lover" and warned that the state would experience a "return" to Negro rule, under which murderers would be free from prosecution, if Goodwyn were elected.³⁷

In response to the Democratic charges the Populists minimized the nature of fusion and portrayed the Democracy as a false friend of the white race. Fusion with Republicans was nothing more than cooperation to defeat the Democrats, the Populists explained; and after the Democrats were deposed, no Republicans would be permitted to take part in running the

³³*Ibid.*

³⁴*Mobile Register*, May 28, April 30, 1896.

³⁵*Montgomery Advertiser*, April 26, 1896.

³⁶Parrott, "Johnston," 35-36.

³⁷*Montgomery Advertiser*, August 1, July 29, 1896.

government.³⁸ Democratic attacks on fusion, claimed the Populists, were meant to divert attention away from Democratic dependency on Negro votes.³⁹ While castigating the Democrats for "currying favor" among blacks, Reuben Kolb's *Birmingham People's Tribune* praised the Populists for preventing Negroes from infiltrating their ranks.⁴⁰ In essence, the Populists asked the voters, could a party that courted blacks and used fraudulent Negro votes to remain in power claim to be the white man's party?

But the Populists, although they lacked unity on the question of Negro rights, hoped that fusion would attract as many Negro votes as possible.⁴¹ Goodwyn, moreover, advocated allowing all men, black and white, to vote without imposing on them any suffrage requirements. His suggestion, which the Democratic press called a blatant example of demagoguery, prompted the *Mobile Register* to report that blacks, who were purportedly interested only in racial solidarity, lacked the intelligence to vote. At the same time, the *Register* initiated a campaign that called for the creation of educational qualifications for voting by means of a constitutional convention.⁴²

Populist-Republican fusion, from which Goodwyn's forces expected to reap as many as 160,000 votes, proved to be a mistake. Besides creating dissension in the Populist ranks and exposing the party to harmful attacks, fusion may have caused many Populists to support Johnston. One scholar believes that Johnston probably gained more strength as a result of fusion than did the Populists.⁴³ On the local level fusion often was not effected, and any positive effects it might have produced on the state level were ended by Republican treachery. After McKinley was nominated as the GOP candidate for President in July, the Vaughn Republicans, eager to end the unnatural union with "silver loons," broke the fusion agreement and at-

³⁸Carrollton *Alabama Alliance News*, May 12, 1895.

³⁹Going, "Critical Months," 279.

⁴⁰*Birmingham People's Tribune*, May 28, 1896, quoted in Going, "Critical Months," 276n.

⁴¹Parrott, "Johnston," 35.

⁴²*Mobile Register*, May 8, 9, 1896.

⁴³Going, "Critical Months," p. 280.

tempted to run a straight Republican ticket."

National political developments created additional problems for the Alabama Populists. National party leaders, who thought that both the Republican and Democratic parties would straddle the currency issue, scheduled the Populist National Convention after the other two conventions, in the expectation that the late date would enable the convention to serve as a haven for bolting free silver Republicans and Democrats. But the Republicans adopted a strong gold plank and the Democrats responded by endorsing free silver and by nominating William Jennings Bryan for President. This meant that the Populists either could support Bryan by neglecting to select a national candidate, by fusing with the Democrats, or by nominating Bryan as the Populist candidate, or they could chose their own presidential candidate.⁴⁵

Alabama Populists failed to agree on the proper solution to the dilemma. When the Alabama delegation to the national convention caucused, Kolb, the chairman of the delegation, announced that he would support Bryan and fusion, while Congressman Howard, G. B. Deans, and J. C. Manning declared that they would oppose both.⁴⁶ As did many other Alabama Populists, Howard feared that cooperation with the Democrats on the national level would clear the way for the absorption of the state party by the Democracy. But he also feared that if the Populists lost their identity in Alabama then he would not be renominated for a second term in congress. Therefore, when it seemed likely that Bryan would be nominated by the Populists, Howard devised a scheme for preserving the Populists' identity.⁴⁷

⁴⁴Thomas Kermit Hearn, "The Populist Movement in Marshall County" (unpublished M. A. thesis, University of Alabama, 1935), 102-106; Going, "Critical Months," 280, 277.

⁴⁵John D. Hicks, *The Populist Revolt: A History of the Farmers' Alliance and the People's Party* (Minneapolis, Minn.: University of Minnesota Press, 1931), 349-352.

⁴⁶Harris, "Howard," 90-91, 90n.; Robert Franklin Durden, *The Climax of Populism: The Election of 1896* (Lexington, Ky.: The University of Kentucky Press, 1965), 25.

⁴⁷Harris, "Howard," 92, 92n.

After getting the convention to reverse the order of nominations, Howard put before the gathering the name of Tom Watson of Georgia as a vice-presidential candidate.⁴⁸ Watson subsequently was accorded second place on the Populist ticket. Although the Populists nominated Bryan and effected semi-fusion with the Democrats, Watson's nomination provided them with a national candidate, guaranteed the existence of a Populist ticket, and helped to preserve the identity of the party.

The Populists' choice of a vice-presidential candidate neither ended disagreements among Alabama Populists nor explained to the state's confused voters the meaning of Democratic-Populist semi-fusion on the national level. Kolb still favored the Democratic national ticket, including conservative Democrat Arthur Sewall of Maine, the vice-presidential candidate. Although he kept secret his position until the outcome of the state elections was known, the Democratic press reminded the voters that Kolb had supported the Bryan-Sewall ticket at the Populist National Convention.⁴⁹ Undoubtedly, the national cooperation of Populists and Democrats on a free silver platform, and Kolb's support of the Democratic national ticket, caused some former Kolb supporters to vote for Johnston.⁵⁰ Finally, in the last few weeks of the Goodwyn-Johnston race, the Populists seemed more to be running a three-ringed circus than a political campaign, with Populists and Republicans in Alabama still officially bound together by a fusion agreement, with Populists and Democrats cooperating on the national level, and with Goodwyn, an ardent admirer of Bryan, receiving support from anti-fusion Populists and from Republicans.

To the Populists the 1896 state election was "the final struggle between the white masses of the state and the plutocratic oligarchy."⁵¹ As a part of that struggle, such Populist notables as James "Whiskers" Weaver, former Populist presidential candidate, and James "Cyclone" Davis, Texas Populist orator, campaigned in Alabama for the state ticket.⁵² The

⁴⁸*Ibid.*, 92-93.

⁴⁹Montgomery *Advertiser*, August 1, 1896.

⁵⁰Going, "Critical Months," 277-278.

⁵¹Wedowee *Randolph Toiler*, July 10, 1896, quoted in Going, "Critical Months," 280.

⁵²Mustin, "Goodwyn," 66.

People's Tribune proclaimed that the only issues were Democratic election frauds and the money question.⁵³ Goodwyn faithfully served up the stale corruption charges to the voters, but, although he believed that free silver was needed to help the farmers, he did not emphasize the currency issue.⁵⁴ On the eve of the election, Goodwyn predicted victory if the count was honest, whereupon the Democrats ridiculed him for even suggesting that fraud was possible.⁵⁵

In 1896 the Democrats, indeed, did not need to resort to fraud to win. Johnston gained a landslide victory by amassing 128,551 votes to Goodwyn's 89,290.⁵⁶ For the first time since Kolb had bolted the party in 1892, the Democrats received a majority from the white counties, and only one congressional district, that of Populist Congressman Howard, gave Goodwyn a margin over Johnston.⁵⁷ In addition, the next state legislature would be overwhelmingly Democratic.⁵⁸ Goodwyn and many of his supporters believed that the Democrats, as in 1892 and probably in 1894, had stolen the election, and Goodwyn was urged to contest the results.⁵⁹ But it was clear that the Democrats, by dissolving the working alliance with eastern conservatives and by adopting much of the Populists' rhetoric, had absorbed a large portion of the recent protest vote and were safely in control of Alabama politics.⁶⁰

After the state elections, blurred party lines were almost erased as Populists and Democrats forgot previous party divisions while grouping for the national elections according to their views on the currency issue. Kolb, now working feverishly to gain re-entry into Democratic circles, revealed his support of the Bryan-Sewall ticket for which he was praised by

⁵³ *Montgomery Advertiser*, August 1, 1896.

⁵⁴ *Mobile Register*, May 8, 1896; Mustin, "Goodwyn," 34-35.

⁵⁵ *Montgomery Advertiser*, August 1, 1896.

⁵⁶ Manuscript Election Returns, Alabama Gubernatorial Election, 1896, Files of the Secretary of State (Alabama Department of Archives and History, Montgomery).

⁵⁷ *Ibid.*

⁵⁸ Clark, *Populism in Alabama*, 170.

⁵⁹ Mustin, "Goodwyn," 70-71; *Montgomery Advertiser*, August 6, 1896.

⁶⁰ Going, "Critical Months," 281.

free silver Democrats and condemned by anti-fusion Populists.⁶¹ He opposed Congressman Howard's bid for re-election, and even opposed Goodwyn's recently announced candidacy for Congress.⁶² While campaigning for Bryan and Sewall, Kolb declared that Watson's nomination might hurt Bryan's chances by splitting the free silver vote, and urged the voters to ignore Watson.⁶³ In response Watson, speaking in Gadsden in support of Howard, said that Kolb's opposition was of no significance.⁶⁴ The *Montgomery Advertiser*, which was backing the gold Democrats' national ticket (headed by John M. Palmer of Illinois and Simon B. Buckner of Kentucky) in an attempt to decrease Bryan's vote, accused Kolb of plotting to commit election frauds to beat McKinley.⁶⁵ The Populists labeled Kolb a political traitor and read him out of the party.⁶⁶ He soon re-joined the Democracy.⁶⁷

Although the party remained intact until 1900, the Goodwyn-Johnston campaign was the last of any consequence for the Alabama Populists. Even prior to the final defeat of the Populists factions of the Democratic party as in the past were pitted against one another in the most important political battles in the state. In 1898, however, the anti-fusion Populists, after announcing that they would not join with the Republicans and declining the offer of fusion tendered by the Democrats, nominated State Senator G. B. Deans to lead a futile attempt to defeat Johnston.⁶⁸ Previously, many former Populists had entered the ranks of the Republicans or of the Democrats, so the Populists' strength did not approach the level of 1896.⁶⁹

⁶¹*Montgomery Advertiser*, October 20, 1896; Going, "Critical Months," 278.

⁶²*Montgomery Advertiser*, October 21, 1896.

⁶³Rogers, *One-Gallused Rebellion*, 323-324.

⁶⁴*Montgomery Advertiser*, October 22, 23, 1896.

⁶⁵*Ibid.*, October 4, 21, 1896.

⁶⁶*Ibid.*, October 15, 1896.

⁶⁷In later years, Kolb was an unsuccessful Democratic candidate for president of the Alabama Railroad Commission. He was elected Commissioner of Agriculture in 1910. Four years later, he failed in a bid for the Democratic gubernatorial nomination. See: Charles Grayson Summersell, "A Life of Reuben F. Kolb" (unpublished M. A. thesis, University of Alabama, 1930), 127-131, hereafter cited as "Kolb."

⁶⁸Harris, "Howard," 123; Summersell, "Kolb," 124; Parrott, "Johnston," 59.

⁶⁹Going, "Critical Months," 278; Sheldon Hackney, *Populism to Progressivism in Alabama* (Princeton, 1969), 111-116, 118, 121.

Election news generated little concern in comparison to journalistic accounts of the Spanish-American War, for the economic situation was improving and the Democrats had stolen practically all of the Populists' issues. But the Populists did attract some attention when they declared that if the Negroes failed to support them they would permit the Democrats to disfranchise all members of the race.⁷⁰ Nevertheless, Deans carried only ten counties mainly near Shelby, his home county, and in pockets of Populist resistance, receiving only a little over thirty percent of the vote.⁷¹ By 1900 the Populists had difficulty even finding a gubernatorial candidate willing to run against William J. Samford, the Democratic standard-bearer. After S. M. Adams declined the nomination, Gratton B. Crowe consented to take his place.⁷² Crowe carried only two counties, St. Clair and Shelby, and polled eleven percent of the vote, considerably less than the Republican candidate, John A. Steele.⁷³

When it was apparent that political dissenters were no longer to be feared in Alabama, conservative Democrats in order to create a more select electorate sponsored a movement for a constitutional convention which soon disfranchised virtually all Negro voters and many poor whites. Their timing was right. The Spanish-American War had driven the sections of the nation closer together and had left the country in control of many millions of dark-skinned subjects most of whom were not to be accorded the full rights of American citizenship. As it assumed the "white man's burden," the nation as a whole moved closer to the racial mores of the South. By 1898 the United States Supreme Court had acquiesced in segregation in common carriers by approving the doctrine of "separate but equal" on the grounds that the law cannot end racial instincts and had consented to the Mississippi plan for disfranchising Negroes. As blacks migrated North thereby increasing the

⁷⁰Houston Cole, "History of Populism in Tuscaloosa County" (unpublished M. A. thesis, University of Alabama, 1927), 97.

⁷¹Manuscript Election Returns, Alabama Gubernatorial Election, 1898, Files of the Secretary of State.

⁷²Populist Nomination Certificates, June 4, 23, July 4, 1900, Files of the Secretary of State, Notifications of Nominations, June 20, July, 1900, Files of the Secretary of State, Carrollton *Alabama Alliance News*, July 17, 1900.

⁷³Manuscript Election Returns, Alabama Gubernatorial Election 1900, Files of the Secretary of State.

associations of northerners with Negroes even many northern "liberals" were beginning to understand the South's reasoning behind the growing movement for Negro disfranchisement.⁷⁴

Early in his first term Governor Johnston supported the movement for a constitutional convention that was being led by arch-conservative William C. Oates, the previous governor. Johnston favored a convention as a method for acquiring special municipal taxation privileges for Birmingham and gave Oates' movement the added impetus needed to make a constitutional convention a party issue in 1898. Later that same year the legislature passed an enabling act providing for a referendum on the convention issue. Representatives from the white counties raised such loud objections, due to the fear that a convention while disfranchising blacks might also disfranchise poor whites, that Johnston reversed his position and opposed a convention. The Governor, who hoped to unseat Senator Morgan in 1900, did not wish to alienate his strongest supporters, the people of the white counties. In addition, a recent constitutional amendment had accorded Birmingham the special municipal taxation privileges that Johnston favored. Therefore, the Governor called a special legislative session to consider repealing the 1898 enabling act and passing a white primary election law as an alternative to a disfranchising convention.⁷⁵

Johnston's actions produced a split in the Democratic party along the old fault-line separating free silver and sound-money Democrats. Johnston, with the aid of all Populists in the legislature, managed to push his legislative package through the special session. But the conservative Democrats responded by gaining control of the Democratic State Executive Committee, which then condemned Johnston's actions and called the 1899 Democratic State Convention.⁷⁶ The party gathering made a

⁷⁴Malcolm Cook McMillan, "A History of the Alabama Constitution of 1901" (unpublished M. A. thesis, University of Alabama, 1940), 51-54; hereafter cited as "Alabama Constitution of 1901." Rayford Whittingham Logan, *The Negro in American Life and Thought: The Nadir, 1877-1901* (New York, 1954), 168; C. Vann Woodward, *The Strange Career of Jim Crow* (New York, 1966), 70-74, 81-82.

⁷⁵McMillan, "Alabama Constitution of 1901," 60-64, 71-82; Malcolm Cook McMillan, *Constitutional Development in Alabama, 1798-1901: A Study in Politics, the Negro, and Sectionalism* (Chapel Hill, N. C., 1955), 250-251.

⁷⁶McMillan, "Alabama Constitution of 1901," 71-82.

constitutional convention a party issue by pledging the Democracy to seek "a constitutional convention for so regulating the right to vote as to perpetuate the rule of the white man in Alabama."⁷⁷

Large segments of all political parties—Democrats, Republicans, and Populists—were willing to see the blacks stripped of all voting rights. In 1900, the *Brewster News* stated that "honest" Democrats and "honest" Negroes were convinced that blacks should be disfranchised.⁷⁸ While most white Republicans were not opposed to removing blacks from politics, Lily-White Republicans actually favored Negro disfranchisement and declared that it would produce a two-party system composed of respectable whites.⁷⁹ Although the Populists consistently opposed calling a constitutional convention, because they feared that any disfranchising scheme might reduce the number of poor white voters, they entertained views similar to those of the Lily-White Republicans. E. R. Calhoun, Populist editor of the *Carrollton Alabama Alliance News*, wrote:

When the Democratic party carries out its policy of eliminating the illiterate vote, as there is every reason to believe it will do before the next state election, then because of the fact that this measure would take nine-tenths of the negro voters out of politics, new hope will grow and dessiminate [*sic*] itself in the ranks of the populists, and a battle royal will be fought. We all know that such a measure would likewise disfranchise many worthy white men, and true populists may be depended upon to resist it to the last, because it is wrong; but when it is done . . . no reasonable man familiar with conditions as they exist in Pickens county will contend that it will not be advantageous to the populist party.⁸⁰

All seemed in order for the Democrats to call a disfranchising convention, but they proceeded with caution. The 1900

⁷⁷Montgomery *Advertiser*, March 30, 1899, quoted in McMillan, "Alabama Constitution of 1901," 73.

⁷⁸*Brewster News*, cited in *Carrollton Alabama Alliance News*, August 14, 1900.

⁷⁹Hackney, *Populism to Progressivism*, 176, 203, 228; McMillan, "Alabama Constitution of 1901," 91-93.

⁸⁰*Carrollton Alabama Alliance News*, August 7, 1900.

Democratic State Convention passed a resolution favoring a constitutional convention. Yet, in deference to the wish of gubernatorial candidate-elect William J. Samford, who feared that such action would endanger party harmony, the convention refused to make the resolution part of the platform.⁸¹

After Samford's election, the legislature passed a second enabling act that provided for a referendum to be held in April, 1901.⁸² In March, a Democratic convention endorsed the enabling act, pledged the party to achieve disfranchisement of the Negro, who was deemed to be unfit to vote, and promised "not to deprive any white man of the right to vote except for conviction of infamous crime."⁸³ As the date set for the referendum approached, the Democracy organized a propaganda campaign designed chiefly to allay the fears of the poor whites that they would be disfranchised. Democratic speakers criss-crossed the state emphasizing the slogan "white supremacy, suffrage reforms and purity in elections."⁸⁴ Although ex-governor Johnston refused to follow his party and spoke against the convention, the question carried easily by a vote of 70,305 to 45,505. Twenty-five white counties voted against, while all black-belt counties voted overwhelmingly in favor of, the convention.⁸⁵

When the constitutional convention convened in Montgomery in the Summer of 1901, the delegates—all of whom were white—had to consider many problems relative to the state government, but their chief concern was the suffrage question.⁸⁶ Here they faced a troublesome task: To disfranchise the Negroes

⁸¹McMillan, "Alabama Constitution of 1901," 84-86.

⁸²*Ibid.*, 87.

⁸³Minutes of the Democratic State Convention, March 19, 1901, Alabama Department of Archives and History, Montgomery.

⁸⁴Minutes of the Democratic State Executive Committee, April 3, 1901, Alabama Department of Archives and History, Montgomery.

⁸⁵Thomas M. Owen, ed., *Alabama Official and Statistical Register, 1903* (Montgomery, Ala., 1903), 1141. For this analysis, "white counties" were defined as those counties with a population over fifty percent white, while "blackbelt counties" were defined as those counties with a population over fifty percent black.

⁸⁶Other problems before the convention were the amending process, the power of the legislature in relation to local legislation, the taxation system, the judicial system, the school system, and the regulation of business. See: McMillan, "Alabama Constitution of 1901," 16, 18, 20-26, 145-170.

without at the same time arousing the poor whites to the point that they would reject the new constitution. The delegates were aware that the federal Constitution ruled out disfranchising blacks "on account of race, color, or previous condition of servitude," but even this was proposed (and defeated) with the understanding that the state would lose a few congressmen.⁸⁷ To many delegates and observers it appeared impossible to disfranchise the Negroes without also disfranchising many poor whites. In agreement were the *Montgomery Advertiser* and *Mobile Register*, both of which suggested breaking the Democratic promise not to disfranchise any whites.⁸⁸

As the delegates engaged in lengthy debates on the suffrage question, they showed little concern for justice to the Negroes. The convention ignored a plea for justice to his race that was made by Booker T. Washington. In fact, the majority of the delegates blamed the blacks for the corruption that had marred recent elections.⁸⁹ Moreover, Democrats, Republicans, and Populists favored Negro disfranchisement.⁹⁰ As a result, the various proposals for disfranchisement were discussed in the light of their possible effects on the poor whites, not the blacks.

Finally, a suffrage plan was proposed by the Democrats and adopted by the convention that included property qualifications for voting, a grandfather clause, a poll tax, an understanding of the constitutional clause that satisfied demands for educational qualifications, and a complex registration procedure. Populists and Republicans, however, opposed the plan because the registration procedure would be controlled by boards of registration appointed by the dominant party.⁹¹ One Republican delegate said, "when [the] partisan board of registration is appointed by a partisan party, the common people of Alabama had just as well say, 'Oh, King, where is thy crown,' for it will be equal to a monarchical government and we will be sub-

⁸⁷*Ibid.*, 124-125.

⁸⁸*Montgomery Advertiser*, June 21, 1901; *Mobile Register*, June 23, 1901.

⁸⁹McMillan, "Alabama Constitution of 1901," 94, 164-165, 128-129.

⁹⁰Frank B. Williams, Jr., "The Poll Tax as a Suffrage Requirement in the South, 1870-1901," *Journal of Southern History*, XVIII (1952), 491.

⁹¹McMillan, "Alabama Constitution of 1901," 141-143, 139.

jects at their hands for disposal."⁹² The poll tax, a measure passed largely due to pressure from the state's schoolteachers, was intended "to take advantage of the obvious economic weakness of the Negro, . . . who would, moreover, often disfranchise himself by thoughtlessly omitting to pay his poll tax at the proper time or by losing his receipt."⁹³ The tax was not opposed by delegates from the white counties; "the Populists tended to ignore it; some Republicans advocated its use."⁹⁴

The disfranchising constitution was ratified by the state's voters following a Democratic campaign stressing "White supremacy! Honest elections! and the New Constitution! One and inseparable!"⁹⁵ While Johnston led the fight against ratification, Kolb spoke throughout the state extolling the virtues of the new constitution.⁹⁶ Democratic speakers, descending on the white counties in groups, promised the poor whites that the new constitution would not disfranchise them, and pleaded with them to uphold white supremacy by voting for ratification.⁹⁷ Negro leaders, reflecting their conviction that the new constitution would be ratified, called for black voters to boycott the polls to prevent fraudulent counting of their ballots, and advised the race to seek justice from the United States Supreme Court.⁹⁸ But only one heavily black county, Lowndes, voted against ratification, while virtually all of the thirty-one counties opposed were predominantly white. While the Tennessee Valley region and the black-belt favored the new constitution, the heaviest opposition came from those areas inhabited by poor whites.⁹⁹

⁹²*Stenographic Report of the Convention*. July 24, 1901, quoted in McMillan, "Alabama Constitution of 1901," 140.

⁹³Williams, "Poll Tax," 471-472; McMillan, "Alabama Constitution of 1901," 125-126.

⁹⁴Williams, "Poll Tax," 494.

⁹⁵*Birmingham Age-Herald*, September 18, 1901, quoted in McMillan, "Alabama Constitution of 1901," 174.

⁹⁶McMillan, "Alabama Constitution of 1901," 175, and *Constitutional Development in Alabama*, 348.

⁹⁷McMillan, "Alabama Constitution of 1901," 179; Woodward, *Jim Crow*, 85.

⁹⁸McMillan, "Alabama Constitution of 1901," 176. In the *Giles Case* (1903), the Supreme Court upheld the Alabama Constitution of 1901. See: *Giles v. Harris*, 189 U. S. 475 (1903).

⁹⁹Owen, *Alabama Official and Statistical Register*, 1903, 1141. The vote was 108,613 for and 81,734 against the constitution.

The effects of the disfranchising constitution were tremendous. In 1900, about 180,000 Negroes were potential voters, and about 80,000 were registered in only fourteen black-belt counties. By January, 1903, only 3,000 blacks were registered in the entire state.¹⁰⁰ A year later there were sixteen counties with four or fewer registered Negro voters.¹⁰¹ Although disfranchisement of poor whites did not take effect as quickly, it was estimated in 1942 that the 1901 Alabama Constitution disfranchised about 600,000 whites and 520,000 blacks.¹⁰²

Professor C. Vann Woodward has held the Populists partly accountable for disfranchisement. He has concluded, correctly, that by 1898 Populists generally held the opinion that Negro disfranchisement would remove from politics the tool used by the Democrats to defeat populism and would make possible a resurgence of the protest movement. In addition, Woodward suggests that the Populists, after failing to attract Negro support for common goals and then suffering final defeat, somehow molded the frustration and bitterness of defeat into aggression against the blacks, who were the most likely scapegoats.¹⁰³

If it is possible to speak of large-scale political movements in terms best used to describe individual personalities, then Woodward's suggestion seems plausible. When applied to the protest movement in Alabama, however, it needs clarification. The protestors did, indeed, blame the Negro for their defeat, but they did so after every state election between 1890 and 1900, and not only following their final defeat. Moreover, after 1892 the protest party had despaired of attracting black votes and sought to prevent the Negroes from participating effectively in politics. To be sure, appeals were made for black votes, but these stemmed from opportunistic motives, not from goals shared with the Negroes; and the appeals did not differ markedly from those made to blacks by Democrats. Also, the nature of

¹⁰⁰McMillan, *Constitutional Development in Alabama*, 352.

¹⁰¹Walter L. Fleming, *Civil War and Reconstruction in Alabama* (New York: Columbia University Press, 1905), 806-807.

¹⁰²McMillan, *Constitutional Development in Alabama*, 354.

¹⁰³Woodward, *Origins of the New South*, 323; *Jim Crow*, 81-83; and, *The Burden of Southern History* (New York, 1968), 118.

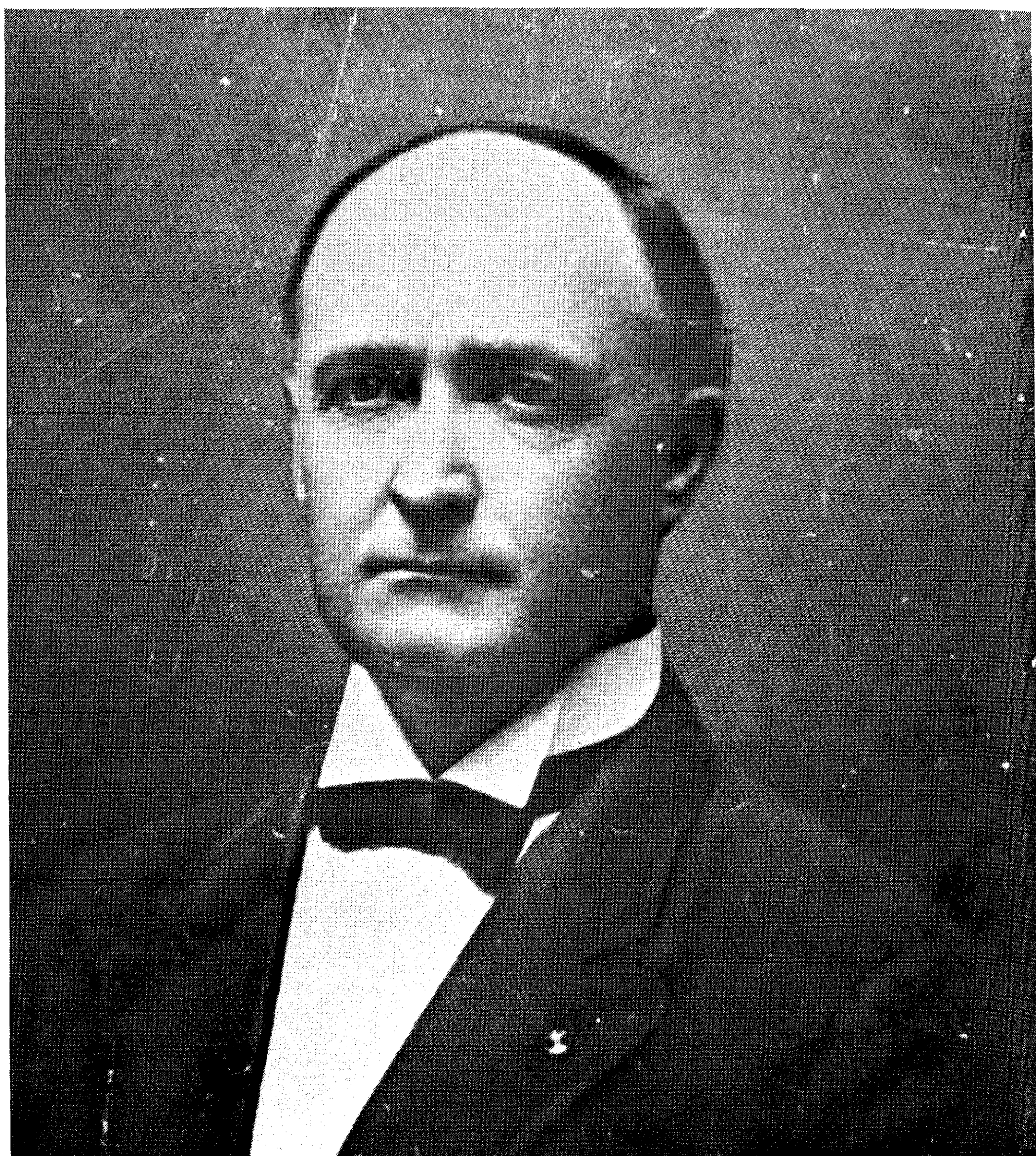
the protest movement after 1896 should not be assumed too readily to be the same as that of the movement prior to that time. Many leaders such as Reuben Kolb had become right-wing Democrats, while others, perhaps a majority, had joined the Lily-White Republicans. Until additional studies have been completed, the political motives of those leaders that remained—and they were usually such die-hard anti-Democrats *and* anti-Republicans as Gratton B. Crowe and S. M. Adams—cannot be described in detail. Since the protest party had crumbled by the time of the Alabama disfranchising convention, it is impossible to ascertain what part it might have played in disfranchisement had it been as strong in 1901 as in 1892. In addition, the idea of disfranchisement had existed before the protest movement and was not actualized until the dissidents no longer posed a threat and the Democrats were firmly in control of Alabama politics. Perhaps the association of the protest movement with disfranchisement is more the consequence of the closeness of the two events in time, than of an intrinsic relationship between them.

Whether or not the protest movement had a major role in disfranchisement, it did have many significant results. For a few years Alabama experienced the stimulation of a two-party system. While politicians were forced to pay heed to all the political currents in the state, the heated elections of the nineties focused the voters' attention on a number of key issues including Democratic corruption and machine tactics, the role of the Negro in Alabama politics, the convict-lease system, the distressed condition of agriculture, and the currency issue. When the voters responded by supporting the protest party, the Democrats reacted by absorbing the issues of the protest movement. New party leaders, politicians like Joseph F. Johnston and Braxton Bragg Comer, who were inclined to serve the interests of the entire state, appeared to challenge the leadership of men like Thomas G. Jones and William C. Oates, who represented only the dominant groups. A split developed in the party ranks that separated "progressives" and "conservatives" and gave the state a kind of two-party system in the future. Democratic party machinery, as the result of a state elections contest law and a white primary, became more responsive to the popular will. Also, the Democrats sought to alleviate the worst effects of the convict-lease system and revealed a

greater interest in scientific agriculture and programs for agricultural diversification.¹⁰⁴ Professor Sheldon Hackney has found little evidence that suggests continuous development from the protest movement of the nineteenth century to the progressive movement of the twentieth, but the political revolt of the nineties, even if it did not set the tone for another age, certainly forged the political issues of the day.¹⁰⁵

¹⁰⁴Fleming, *Civil War and Reconstruction in Alabama*, 800; Clark, *Populism in Alabama*, 163, 176-178.

¹⁰⁵See: Hackney, *Populism to Progressivism*, *passim*.



THE ORIGIN OF THE ALABAMA DEPARTMENT OF ARCHIVES AND HISTORY

by

Robert R. Simpson

Before the turn of the twentieth century, the Southern states had shown little leadership in historical activity in the United States. Although the Civil War seriously interrupted early Southern progress in this endeavor, several factors combined later to permit the South to assume national leadership for a time in archival preservation. One chief factor was the growing industrialization of the region, a development that provided the resources necessary for greater educational advancement on the one hand and on the other produced a fear that Southern identity would soon be lost. A virtual historical renaissance then occurred resulting mainly in the creation of a new concept of state responsibility to history—the department of archives and history.

Alabama's role in the Southern archival movement was a most important one. In 1901 this state became the first in the Union to make a separate governmental department responsible for preserving its history. Its pioneer State Department of Archives and History quickly became a model for other states and by the end of the decade four Southern legislatures had followed Alabama's lead.

The originator of this new concept was an amateur historian and a native Alabama lawyer, Thomas McAdory Owen. Owen was born December 15, 1866, in Jonesboro, near the present-day industrial center of Bessemer.¹ He received his early education in a common school and prepared for college at a nearby academy. In 1884, Owen entered the University of Alabama, emerging three years later at the age of twenty-

¹For a fuller sketch of Owen's career, see Thomas M. Owen, *History of Alabama and Dictionary of Alabama Biography* (4 vols., Chicago, 1921), IV, 1310-1311; James F. Doster, "Thomas McAdory Owen, Sr.," Clifford L. Lord, ed., *Keepers of the Past* (Chapel Hill, 1965), 97-108; and Mitchell B. Garrett, "The Preservation of Alabama History," *North Carolina Historical Review*, V (January, 1928), 3-19.

one, with two degrees, a bachelor of arts and a bachelor of laws. He graduated first in a class of twenty-two.

His education completed, Owen settled and practiced law in newly established Bessemer. His interests were so diverse, however, as to lead him into a multiplicity of activities—as justice of the peace (1888), city solicitor and chairman of the Jefferson County Democratic Executive Committee (1890), president of the University of Alabama Alumni Society (1888-90), and assistant county solicitor (1892). The following year he married Marie Bankhead, daughter of Congressman and later Senator John H. Bankhead, one of Alabama's most prominent politicians. This marriage proved to be very fortunate for Owen. His wife encouraged and assisted him professionally, as did his influential father-in-law.

If law was Owen's chosen profession, history became his avocation. This secondary career apparently had its beginnings two years after he left the University of Alabama when he began collecting student publications of his alma mater and fraternity. As his interests broadened over the years, Owen collected books, documents, newspapers, and correspondence relating to his native state. In doing so he came to realize how little Alabama history had been written.

Financial difficulties led Owen to ask his father-in-law to assist him in securing a governmental position in Washington. Successful in his quest, he served from 1894 until 1897 as chief clerk in the Division of Post Office Inspectors. During this period, Owen spent much of his spare time in the Library of Congress where he made the acquaintance of the head librarian, Dr. Ainsworth R. Spofford. The two became close friends, and Owen profited greatly from Spofford's knowledge of scientific historical research.

Encouraged by Spofford, Owen continued his collecting activities, eventually accumulating what a later writer called "the greatest collection of government documents in private hands ever assembled in America."² Equally important for

²Peter A. Brannon, "The Alabama Department of Archives and History," *Alabama Historical Quarterly*, XXII (Spring, 1962), 13.

Owen's future historical career were his compilations of bibliographies of Alabama and Mississippi. When the American Historical Association published them among its *Annual Reports*, they quickly won for the compiler a prominent place in historical circles.³

While in Washington, Owen met numerous directors of historical societies, men the stature of Wisconsin's Lyman Draper, and such professors of history as Stephen B. Weeks and Colyer Meriwether. These contacts proved invaluable to him later. In 1896, he and several of these friends founded the Southern History Association. Owen was elected its first treasurer, a position he held as long as he remained in Washington.⁴

Returning to Alabama in 1897, Owen opened a law practice in the little Black Belt town of Carrollton, but maintained a major interest in history. Before leaving Washington, he prepared a bill providing for a state commission to study the public and private records of Alabama history and to make recommendations concerning their preservation. This proposal was introduced into the Alabama legislature, but—for lack of adequate support—there was no final action.⁵

Owen then turned his attention to revitalizing the moribund Alabama Historical Society. This institution, founded in 1850 at Tuscaloosa, had suffered many trials and tribulations. The Civil War and Reconstruction interrupted its work, and after a brief revival of interest in 1874 it died out during the following decade.⁶ In 1898, Owen suggested to several people,

³The "Bibliography of Alabama" appears in the *Annual Report of the American Historical Association for the Year 1897* (Washington, 1898), and the "Bibliography of Mississippi" appears in the same publication for the year 1899, I, 633-828.

⁴*Publications of the Southern History Association*, I (January, 1897), 2-4. Stephen B. Weeks and Colyer Meriwether were both Johns Hopkins University trained historians.

⁵Thomas M. Owen, ed., *Report of the Alabama History Commission: Publications of the Alabama Historical Society*, Miscellaneous Collections (Montgomery, 1901), I, 5-6.

⁶See pamphlet by Peter A. Brannon, *The Years of the Alabama Historical Society*, (Montgomery, 1964), and Allen J. Going, "Historical Societies in Alabama," *Alabama Review*, I (January, 1941), 39-43.

Professor Thomas C. McCorvey of the University of Alabama among them, that the Society should be rejuvenated. McCorvey responded favorably and arranged an organizational meeting.⁷

The meeting was held June 21, 1898, at Clark Hall on the University of Alabama campus in Tuscaloosa. Dr. W. S. Wyman, professor of Latin at the University and one of the Society's vice presidents, presided. In the absence of the secretary, Wyman designated Thomas Owen to act in this capacity. From the very start it must have been abundantly clear that Owen would be the guiding light behind the new organization; for not only did he appear with papers to be read at the meeting, but he also presented written resolutions regarding the Society's future work. In introducing these measures, Owen called attention to the great interest manifested all over the country in history and historical investigation. His remarks revealed an aspect of his personality which later proved an invaluable asset to his career and to the cause of Alabama history: his ability to generate enthusiasm by applying the psychology of positive thought. His genuine enthusiasm about historical work in Alabama and his assuring his hearers that the state's cultured people were ready to support a substantial revival of the historical society, created in his audience the feeling that they were part of a significant movement. The goal of that movement, said Owen, was inducing the General Assembly to aid the cause of history in Alabama⁸

Owen then introduced his resolutions and on his motion they were all adopted. These resolutions made the secretary, as a later writer phrased it, "to all intents and purposes, the society."⁹ They empowered this officer to increase the Society's membership, disseminate information as to its objectives and work, publish the proceedings of all its meetings, and "generally . . . further its interests and manage its affairs."¹⁰ Owen

⁷McCorvey to Owen, April 1, 1898, Alabama State Historical Society Papers (Alabama Department of Archives and History, Montgomery).

⁸Thomas McAdory Owen, ed., "Proceedings of the Annual Meeting, June 21, 1898," *Publications of the Alabama Historical Society Transactions* (Tuscaloosa, 1898), II, 11.

⁹Garrett, "The Preservation of Alabama History," 9.

¹⁰Owen, ed., "Proceedings of the Annual Meeting, June 21, 1898," 13. See also the Tuscaloosa *Evening Times*, June 22, 1898, for an account of the meeting.

was then elected to the combined office of secretary and treasurer.

The Society showed great political wisdom in obtaining state aid. It elected the governor to the office of president, an honor subsequently accorded two other governors during the remaining years of the Society's existence. These officials proved valuable contributors to the eventual establishment of the Alabama State Department of Archives and History.¹¹ Foresight was also shown in the election of an impressive list of distinguished citizens to fill the other offices.

Secretary Owen lost no time in settling down to work. He wrote over 1500 letters, most of them personal invitations to membership in the newly-reorganized Society. As a result, within a year 251 new and 25 corresponding members were added to the rolls. Among the corresponding members were Professors Herbert Baxter Adams and J. Franklin Jameson and two future presidents of the United States, Woodrow Wilson and Theodore Roosevelt.¹² At the same time, Owen issued five circulars describing and promoting the work of the organization and appealing for additional members. These circulars were small enough for easy insertion into envelopes for mailing.

Circular No. 3 was entitled "An Appeal to the Press of the State." Expressing the belief that the press could do more to further the organization's work than any other known agency, Owen briefly explained the purpose of the Historical Society and asked the editors for additional publicity. Secretary Owen also took this opportunity to request two complimentary copies of future issues of each newspaper in order to build up the Historical Society's files.¹³

¹¹Governor Joseph Forney Johnston served two terms as president, 1898-1899 and 1900-1901. Governor William James Samford was elected president for the 1901-1902 term, but he died on June 11, 1901. He was succeeded by Governor William Dorsey Jelks, who served from 1902 until the Society's demise in 1905.

¹²Owen, ed., "Proceedings of the Annual Meeting June 19, 1899," *Transactions*, III, 17-18; and Alabama Historical Society, *Administrative Circular No. 4* (Montgomery, 1899), 15.

¹³Alabama Historical Society, *Administrative Circular No. 3* ([Tuscaloosa?] August 15, 1898).

Within a year of the Historical Society's reorganization, it had achieved its major immediate goal of obtaining legislative assistance for furthering its work. Two acts passed in December, 1898, provided the first appropriation for historical work ever made by the State of Alabama. One bill (H. 460)¹⁴ appropriated \$250.00 annually for two years to aid the Alabama Historical Society in the publication of its transactions and papers. The other bill (H. 459) provided the authority for establishing an historical commission of five persons selected from the membership of the Alabama Historical Society. The duty of the commission as stated in the bill would be

. . . to make a full, detailed and exhaustive examination of all of the sources and materials, manuscript, documentary and record of the history of Alabama from earliest times, whether in domestic or foreign archives or repositories, or in private hands, including the records of Alabama troops in all wars in which they have participated, and also of the location and present condition of battlefields, historic houses and buildings, and other places and things of historic interest and importance in the State; and the said commission shall embody the result of said examination in a detailed report to the Governor of Alabama prior to the next ensuing session of the General Assembly, with an account of the then condition of historical work in the State and with such recommendations as may be desirable.¹⁵

Both bills received the enthusiastic support of the local press. The *Montgomery Advertiser* of December 4, 1898, ran a full column editorial explaining the two bills, pointing out the need they were designed to meet, and endorsing the ideas contained in each. The *Montgomery* editor explained that commissions were frequently appointed by state legislatures as well as by Congress to conduct investigations among various lines of inquiry. He noted that, in many states, commissions similar to the one proposed for Alabama had already been formed and that South Carolina had a permanent historical

¹⁴For a copy of the bill, see *Alabama Acts of the General Assembly, General Laws, 1898-99*, 65.

¹⁵See *ibid.*, 20-21. Also in Owen, ed., *Report of the Alabama History Commission*, 7-8.

commission whose members served without pay. In his endorsement of the appropriation bill, the Montgomery editor stated his conviction that the Historical Society was entitled to the small appropriation requested and that the future work the members would accomplish would more than justify the expenditure. The editorial concluded with an appeal to state pride: "The State owes it to her sons to preserve her history, and the beginning here sought to be made in this behalf will reflect credit on those who support the measure long after the ordinary incidents of this session are forgotten."¹⁶

In spite of this lengthy editorial's clarity and the persistent character of the promotional campaign, some confusion over the bills' nature arose in the legislature. The *Advertiser* reported the controversy the following day under the heading "General Assembly Filled with Patriotism." Several representatives created a field day of oratory in favor of the bills. Representative William W. Brandon, a member of the Historical Society and sponsor of the appropriation bill, initiated the discussion by stating that the legislature would be untrue to posterity were it to deny the paltry aid proposed for the encouragement of the state's historiography. "We owe it to ourselves; we owe it to all the people of Alabama, we owe it to all that is high and uplifting in life," he said. But another legislator questioned the wisdom of the measures stating that he did not see what would prevent members of the Historical Society from sticking the money appropriated into their own pockets. Representative Bernard Harwood, an Historical Society member from Greene County, resented this imputation and in an eloquent oration appealed to the memories of Admiral Raphael Semmes, General Joseph Wheeler, Major John Pelham (all Alabama war heroes), and to the recent "forceful example of [General Richmond Pearson] Hobson,"^x to stir the hearts of the measure's opponents. William C. Davis of Marion County, another member of the Historical Society, said that he failed to understand how any representative could vote as an Alabamian against the bill. Then came Representative B. H. Screws, of Montgomery County, with what the *Advertiser's* account termed "a gallery of word pictures." Screws expressed

¹⁶Montgomery *Advertiser*, December 4, 1898.

his surprise at the opposition which had developed to the measure, adding:

. . . especially when we consider the consecrated hall in which we are assembled—this sacred chamber around which cluster so many sad yet glorious memories—this hall where the fiery invective of Yancey, the sweet eloquence of Bullock, the deep reasoning of Houston, the irresistible logic of Watts, and the impetuous valor of Clanton [were heard]. This discussion, Mr. Speaker, has brought up tender memories of that period of history known as the Old South. Glorious Old South! May her sons be ever true to her ancient fame and worthy of her ancestral honors. . . . To vote down this proposition, Mr. Speaker, to collect and preserve these records, I cannot believe is the purpose of this House. But if such is the intention, then burning shame will set its seal on the brow of this great State; and her proud sons, as they travel in other lands, will blush at the recital of their State's dishonor as it falls from the sneering lips of the stranger.¹⁷

Upon finally securing the floor, T. M. Patterson, a Barbour County legislator who had first voiced disapproval of the measure, announced that he had been under a misapprehension when he opposed the bill. He blamed the Society's members for not having fully explained the legislation and declared his now hearty approval. This said, the bill finally passed by a vote of 75 to 3.¹⁸ On the following day chauvinistic patriotism reached another peak; for the tall, gleaming monument honoring the Confederacy was to be unveiled on the north lawn of the capitol building. House of Representatives members, in a hurry to attend the unveiling, quickly reconsidered the history commission bill and a new count of 59 to 1 was recorded.¹⁹

At the public unveiling ceremony both chambers heard former Governor Thomas G. Jones, a member of the Historical Society, make an impassioned address calling on the state to assume its obligations to its history. Stating that "our duty

¹⁷*Ibid.*, December 7, 1898.

¹⁸*Alabama Journal of the House of Representatives*, 1898-99, 326.

¹⁹*Ibid.*, 349.

is not ended with the unveiling of this monument," he then posed the following questions:

Where may [an] Alabamian find a roll of the men who made history and yet left no name on its pages? Where can he find the names of the great throng who died, with no rank to attract the eyes of the country, and went down to death unheeded save by the firm beating of their own dauntless hearts? Can he find their names among the archives of the State for which they gave their lives? They are not there. In historic publications of her heroic sons? She has written none. Will he find them on the graves of the dead? Some have no headstones, and many are marked "unknown."²⁰

Two days later the Senate passed both appropriation and commission bills by a unanimous vote.²¹

On January 6, 1899, Governor Johnston, acting as president of the Historical Society, designated five members to serve on the newly created History Commission.²² In June the Commission assembled at the University of Alabama, elected Owen as its chairman, and agreed on its course of action.²³

In that same month, the Commission published a circular stating the nature of its proposed work and promising that a report in preparation would fully indicate what Alabama historical material was in existence and where it could be found. But the Commission recognized the impossibility of accomplishing this task without the public's assistance, and therefore urged every Alabamian to render aid:

In all parts of Alabama are individuals who have facts in their knowledge on some, if not all of the topics embraced in the proposed investigation. Hid away in old trunks,

²⁰Montgomery *Advertiser*, December 8, 1898.

²¹*Alabama Journal of the Senate*, 1898-99, 304-305.

²²Members appointed were Thomas M. Owen; Dr. W. S. Wyman, University of Alabama; Colonel Samuel Will John, Birmingham; Peter J. Hamilton, Mobile; and Professor C. C. Thach, Alabama Polytechnic Institute, Auburn. Owen, ed., *Report of the Alabama History Commission*, 13.

²³*Ibid.*, 14.

drawers, book-cases, and chests, are numbers of manuscript treasures; private letters, letter books, diaries or journals, weather notes, manuscript maps, account books, surveyor's note or field books, etc. In the hands of participants, or their descendants in the Indian wars, the Texan and Mexican wars, and the late war between the States, are doubtless to be found valuable letters, journals of campaigns, and rolls of various commands, as well as mementoes of these struggles. The location, extent and present ownership of all such materials is earnestly desired; and if possible a gift of the same to the Historical Society.²⁴

The context of this paragraph was to be rephrased numerous times in the future by similar agencies seeking to preserve their state history.

Owen worked diligently to collect information on all phases of Alabama history. He corresponded with hundreds of individuals and groups and he gained a vast amount of information. In addition, he wrote historical societies across the country and, from the replies received, he was able to compile a section for the Commission's report on what other states were doing for their history. Owen was particularly concerned with the condition of the public records in Alabama. A story has been widely circulated that he became quite upset over seeing a stack of valuable state documents used as a doorstop in the state capitol building and that he resolved to find a solution to such problems.

That solution Owen presented as the major recommendation in the History Commission's 446-page report to the Governor. It urged the creation of a new government department, the first of its kind, to be known as the Alabama State Department of Archives and History.²⁵ This department was to be "charged

²⁴Alabama Historical Society, *Administrative Circular No. 7*.

²⁵Doubtless, the idea was original with Owen, but perhaps a letter addressed to him from University of Alabama history and philosophy professor Thomas C. McCorvey, written in 1898 as part of an exchange concerning the rejuvenation of the Alabama Historical Society, stimulated his thinking. McCorvey wrote: "This idea suggests itself to me: The Secretary of State is the constitutional custodian of public documents. A bureau established in his office and presided over by a competent person as archivist, having at his disposal a thousand or two dollars per annum for the purchase and preservation of historical materials,

with the custody of the State official archives, and the collection and creation of a State library, museum and art gallery, with particular reference to the history and antiquities of Alabama, to be under the supervision of a Director" and to have "a liberal continuing appropriation." The Commission proposed that the collections of the Alabama Historical Society be turned over to the new department so they could form the nucleus for future departmental holdings. The department would build "a great reference historical library" for the state. It would also "gather together the surviving letters and papers of our public men, and the large number of interesting museum articles as well as pictures, which are now waiting some safe place of deposit."²⁶

The advantages of the proposed department were numerous. Its establishment, according to the History Commission's report, would be a progressive advance for Alabama and would place it "in the front rank" of those states taking an intelligent and patriotic interest in their history and archives. Beyond sentimental and patriotic considerations, however, the department "would prove of greatest practical benefit to the people of the whole State." Its educational value could not be underestimated, the report continued, and it would "be a place to which the patriotic heart of all Alabamians could turn with pride and delight." It would not only increase the "sense of local importance and State pride, but would also engender a higher degree of respect on the part of sister commonwealths."²⁷

The report was favorably received by the press and the public. The *Montgomery Journal* editorially urged the governor to follow the Commission's recommendations and warned that the opportunity for embarking so successfully on the work might

would solve the problem. A historical society to accomplish anything ought to have a secretary who could devote practically his whole time to the work, and of course, this would require a decent salary, as well as money with which to make purchases. Such an organization independent of state aid is impracticable now and may be for years to come. Let the state, however, undertake the work of preserving her history, and the problem is solved." McCorvey to Owen, January 18, 1898, Thomas M. Owen Papers (Alabama Department of Archives and History, Montgomery).

²⁶Owen, ed., *Report of the Alabama History Commission* 37.

²⁷*Ibid.*, 37-38.

not occur again in a generation.²⁸ The *Advertiser*, assuring its readers that public opinion seemed generally favorable to the plan, published as partial proof resolutions adopted by the faculty of the Alabama Polytechnic Institute at Auburn.²⁹ A later editorial in this daily reiterated the prior endorsement and quoted from former Governor Jones' 1898 Confederate Monument oration: "Poverty and despair long pleaded to excuse us but that excuse is not good now."³⁰ The *Birmingham News*' endorsement expressed such confidence in the establishment of the new state department that it turned its attention to the next order of business, choosing a director. The *Birmingham* editor felt that Owen was the most suitable person to fill this position and stated that it would be "but slight recompense to give him the means to complete the work of love begun and so painstakingly prosecuted by him."³¹

Owen drafted the bill creating the Department of Archives and History³² and it was introduced into the Senate by William Dorsey Jelks (later elected state governor and president of the Alabama Historical Society). Owen recognized that the project might be regarded as experimental and, sensitive to possible opposition, he asked for a very small first-year appropriation. The \$3,000.00 he requested was to cover the director's salary, that of a stenographer, traveling expenses, and the cost of all necessary office supplies.

In a special message to the legislature, Governor William Samford strongly urged the establishment of the proposed department. His financial recommendation for the first year's appropriation, however, was even less than Owen's figure, for the governor suggested the expenditure of not more than

²⁸Montgomery *Journal*, May 5, 1901.

²⁹Montgomery *Advertiser*, February 5, 1901. This was perhaps due to the influence of Professor George Petrie, former student of Herbert Baxter Adams at Johns Hopkins University and a key member of the Alabama Historical Society.

³⁰*Ibid.*, February 6, 1901.

³¹Birmingham *News*, February 11, 1901.

³²Colyer Meriwether, also a former Adams student and a Washington friend of Owen's, credits Owen with authorizing the legislation in his *History of the Intellectual Life of the South, The South in the Building of the Nation* (Richmond, 1909), VII, 514-515. For a copy of the bill, see Alabama, *Acts of the General Assembly, General Laws*, 1900-01, 126-31.

\$2,500.00 per year, stating that subsequent general assemblies could increase the sum when the department had demonstrated its importance and value. Appropriations were significantly increased in later years.³³ Meanwhile, the legislature gave nearly unanimous approval to the archives and history bill and on February 27, 1901, Alabama became the nation's first state to enhance Clio with departmental status, providing a model for numerous other states.³⁴

Five days after the governor signed the bill into law, the nine trustees, each representing an Alabama congressional district, held their first meeting in the governor's office. They organized the department and elected Thomas Owen its director. The new act specified that the department was "to be located in the State Capitol in an apartment to be set aside for its use by the Governor" but the only available space not in use at the time was the Senate cloak room. There Owen received permission to establish his office. While his quarters were inadequate, he was at least conveniently located to lobby for further legislative support, which he did at every opportunity.

The Senate needed little encouragement. Owen set up his historical art gallery and museum in the Senate chamber and expropriated the Senate gallery for his overflow books and files. Perhaps acting partially out of fear that the energetic and resourceful Owen would take over their entire chamber for his purposes, the Senate voted to enlarge the statehouse! A 1903 act named Thomas Owen secretary of the Alabama Capitol Building Commission. He used his influence to insure that the new wing to be built would contain a fireproof repository for the use of his department. Upon completion of the new extension in 1907, Owen's bulging collections occupied nearly half the space. Within a decade, the collections overflowed the new quarters and filled five former dwellings nearby.³⁵

These archives included a copy of the first Alabama constitution, dated 1819, original manuscripts of later constitu-

³³See Alabama Department of Archives and History, *Laws Governing the Department of Archives and History*, Bulletin No. 4 (Montgomery, 1907), 9-10.

³⁴The Senate vote was 23-1, *Alabama Journal of the Senate*, 1900-1901, 1381.

³⁵"Address of Dr. R. D. W. Connor," *Alabama Historical Quarterly*, II (Fall, 1940), 278.

tions, executive correspondence dating from 1835, files of numerous governmental officials, constitutional convention records, and legislative records. Numerous other useful records now became available to scientifically-oriented historians. They included census returns, land records and maps, military registers, bonds, tax statements, pension statements, and other useful material. Local officials turned over to the new agency their non-current records in accordance with the act creating the Department. To these official archives Owen added impressive private collections. Spofford donated all duplicates of Southern newspapers from the Library of Congress. The J. L. M. Curry heirs presented his private library comprising some 2,500 pieces. The family of William L. Yancey donated all this famous orator's manuscripts and papers. Owen collected a portion of the library owned by Albert J. Pickett, one of Alabama's first historians. The Department quickly became a popular depository of manuscripts written by Alabamians.

Other duties occupied Owen's time in the Department's early years. One was preparation of the *Official and Statistical Register of the State of Alabama*, a useful statistical compilation about the state and its officials. Owen issued this volume four times during the first ten years of his administration. In 1907, the Department of Archives and History began encouraging the establishment of public school libraries and assisting in their organization; also similarly serving in the organization of a legislative reference service for state legislators. Performance of these additional duties further justified Owen's concept of an archival agency designed to meet specific state government needs.

During these early years of the department's existence, Owen could devote little time to the activities of the Alabama Historical Society. Since he himself was the organization, without his energetic influence the Society steadily declined. At its annual meeting in 1901, the Society voted to turn its historical possessions over to the Department of Archives and History. It resolved to limit itself in the future to publication activities. It also decided to move its headquarters to the city of Montgomery.³⁶ Only three more annual meetings were held

³⁶Owen, ed., "Proceedings of the Annual Meeting, June 3, 1901," *Transactions*, IV, 248.

and two more volumes of transactions were issued before the Society faded out of existence.

Owen did not give up his interest in other organizations, however. On the contrary, he seemed willing to join any organization that he felt would benefit the activities of the department. These included such diverse associations as Sons of Confederate Veterans, which he headed on the national level from 1905 until 1907; the Alabama Library Association, which he founded in 1909 and served as president until his death; the Confederate History Club of Montgomery, which he headed as both founder and president; the Alabama Anthropological Society, which he served as secretary; The Thirteen, a local literary club; the Bartram Natural History Society of Alabama, promoted by Owen; and the Montgomery branch of the Alabama Education Association, organized by Owen. He also held membership in the Alabama Folk Lore Society. Besides his participation in these activities, Owen found time to issue and promote a new historical publication, the short-lived *Gulf States Historical Journal*.

Fame came to Thomas M. Owen during his lifetime. The Mississippi Valley Historical Association accorded him the high honor of electing him president in 1907. He so ably defended his concept of state departments of archives and history before the American Historical Association in 1904 that he was named chairman of the newly organized Conference of State and Local Historical Societies. That same year Owen's alma mater, the University of Alabama, awarded him an honorary degree for extraordinary service to the state. The following year his name was added to the American Historical Association's Historical Manuscripts Commission.

The greatest tangible monument resulting from Thomas Owen's life work is the beautiful and spacious War Memorial Building facing the capitol in Montgomery, the present home of the State Department of Archives and History. This building was constructed in 1940 under the direction of Owen's widow and successor, Mrs. Marie Bankhead Owen, and it fulfilled one of Owen's fondest dreams. No doubt he would feel quite at home there today, for the department is again faced with the problem of inadequate space to house its growing collections

which will be alleviated with the completion of a two-million dollar addition.

Still another tribute to Owen's ability and industry is the fact that state after state has followed Alabama's 1901 lead in adopting Owen's concept of a separate state government department devoted to the cause of history. Within a few months Mississippi had established almost an exact replica of the Alabama department; and before the decade had ended, similar agencies were established in Arkansas, South Carolina, and North Carolina. These states became Southern pioneers in this field of endeavor and they received due recognition from outside the region as well.

BOOK REVIEWS

Stephen S. Renfroe, Alabama's Outlaw Sheriff by William Warren Rogers and Ruth Pruitt. (Tallahassee: Sentry Press, 1972. Pp. 140. \$7.50).

The saga of Stephen S. Renfroe, the notorious outlaw sheriff of Sumter County, is a classic example that truth continues to be stranger than fiction. Had Renfroe's career been adapted for a fictional portrayal, the reader's reaction would be, "Aw, come on, nobody can identify with such an incredible character." But here he is—the cat with nine lives perennially in jeopardy in his numerous escapes. This remarkable individual caught the interest of the author, William Warren Rogers, at least a decade ago. Other scholarly projects demanded more immediate attention, and after enough investigation to see that the search for information about Renfroe was of the needle-in-the-haystack variety, Rogers attempted to shelve Renfroe. But this will-o-the-wisp would not leave Rogers alone until a full study of the sheriff's career was attempted. Now after the publication of numerous other fine monographs, most notably *One Gallused Rebellion: Agrarianism in Alabama, 1865-1896*, Rogers has produced a biography of Renfroe that moves him from the genre of legend into that of history.

The early years of Stephen S. Renfroe are sketched briefly. Renfroe was a native Georgian whose family moved to Butler County, Alabama, while Renfroe was still a child. The product of a yeoman farmer environment not far removed from the frontier, Renfroe nevertheless received a basic education. During the Civil War he served two and one-half years in the Confederate army before deserting in January, 1864.

The major focus of the book begins in the late 1860's when Renfroe turned up in Sumter County, where he became a respected farmer and member of the Ku Klux Klan. The secret nature of the klan makes it difficult to know the extent of Renfroe's participation in Reconstruction violence in west Alabama and east Mississippi, but he did become a hero to those trying to overthrow Radical Republican rule and he was rewarded by election as sheriff of Sumter County after the close of Reconstruction. For a brief period he was a model office-

holder, but then disturbing events occurred. Subsequent investigations exposed that while sheriff he had committed robbery, arson, and blackmail. Eventually, he was jailed but not for long, as he soon engineered his first of many escapes. The remaining six years of his life saw Renfroe in and out of jail, mostly out, as there seemed to be no jail stout enough to hold him long. The details of his incredible jailbreaks, his experiences in the Alabama convict lease system, his life as a west Alabama outlaw are recounted as fascinating anecdotes with all sources carefully noted. Eventually, Renfroe's luck ran out when he was lynched outside of Livingston in July, 1886.

Rogers had lifted Renfroe from folklore to history by exhaustive study of manuscripts, newspapers, and county, state, and federal records. Yet, the thorough research which produced the biography has not, as often happens, squashed the life out of it. The book is at once scholarly and fascinating with a remarkable warmth that makes Renfroe and Sumter County of the 1870's and 1880's seem old friends we know well. The Renfroe who emerges from these pages was obviously a charming and engaging personality, a combination of vice and virtue who attracts the reader as he magnetized his contemporaries.

Stephen S. Renfroe, Alabama's Outlaw Sheriff is an excellent biography of a colorful figure who lived in a period of Alabama history that remains a virgin area for research. Hopefully, this volume will inspire studies of other post-Civil War figures in Alabama. It will certainly serve as a fine model for such efforts.

Sarah W. Wiggins
University of Alabama

The Disruption of the Solid South. By George B. Tindall. (Athens, Ga.: University of Georgia Press, 1972, Pp. 98. \$4.00).

The Disruption of the Solid South is another outstanding volume in the Lamar Memorial Lecture series delivered at Mercer University in Macon, Georgia. The author, George B. Tindall, is Kenan professor of history at the University of North Carolina at Chapel Hill and recently has been highly praised

for his prize-winning *The Emergence of the New South, 1913-1945*.

The three Lamar lectures analyze the Republican party's Southern strategy from Hayes through Nixon. President Rutherford B. Hayes developed a Southern policy in 1877 in order to appease Southern whites and to secure his election. His simultaneous hope was to divide the Southern white vote and encourage political competition for the blacks. Unfortunately, Hayes' well-meant plans went astray, and his appeasement of Southern whites resulted in his desertion of Southern blacks, and subsequent presidents did not reverse the trend. The more Republicans ignored the blacks, the more they failed with the whites, and Democrats continued their hold on the Solid South.

The demise of the Solid South began in 1948, and since that election the ex-Confederate states have not cast a solid electoral vote in any election. Persistent Republican gains are most attributable to convulsions within the Democratic party as party policies have steadily eroded their traditional base of white voters while gradually increasing their black voters. Professor Tindall observes that what is remarkable here is not so much the death of the Solid South as the survival of the Democratic party, which has avoided the sectional split it suffered in 1860 and the disintegration that befell the Whig party in 1854.

The 1952 election marked the turning point in Republican fortunes in the South when the candidacy of the "nonpolitical" Dwight Eisenhower made voting Republican "fashionable" in the South. Republicanism swept the white suburbs and did well in Southern cities. While Eisenhower avoided direct confrontations on the race issue which were likely to cause political alienations, his successor was repeatedly swept into such collisions. The result was a mounting Kennedypobia in the South, and the Goldwater boom added new white members to the Republican party so that in 1968 the Democrats carried only one old Confederate state. As one South Carolinian phrased it, "There ain't that many Republicans in South Carolina, just a lot of mad Democrats" (p. 71). Professor Tindall

expects that in the future both parties will need to seek black votes, and this may vindicate Hayes' belief that political division in the white South constitutes the best guarantee of civil rights for black Southerners.

The volume is the distillation of the author's exhaustive reading in post-Civil War primary sources during decades of scholarly research and his thorough familiarity with the literature parallel to his own work. Footnotes detail his exact sources, while an excellent bibliographical note is included for each of the three chapters and for a general introduction to the subject.

Professor Tindall has done a masterful job in presenting a concise picture of the tangle of Republican attitudes and policies. His account should particularly fascinate those Southerners who have announced that they have not left the Democratic party, rather than the Democratic party has left them. For this is a historian's detached chronicle of what has been, for many an intensely personal and wrenching political shift away from the traditional party of their fathers and forefathers. The book is brief, direct, and lucid, and is peppered with memorable quotations. The scholar will appreciate the volume for its synthesis of historical details and the layman will appreciate it for being readable history. *The Disruption of the Solid South* is a rare combination of fine scholarship and graceful prose.

Sarah W. Wiggins
University of Alabama

Hugo Black: The Alabama Years. By Virginia Van der Veer Hamilton. (Baton Rouge: Louisiana State University Press, 1972. Pp. [ix], 330. \$10.95.)

It is a rare pleasure to discover a book which combines scholarly research with an excellent writing style. This combination is found in a political biography of Hugo Black (1886-1972) which covers his career to the year 1937. The author carries the reader through his childhood, the turbulent twenties of Alabama politics, and into the depression years of the 1930's,

climaxed with Senator Black's appointment as an associate justice of the United States Supreme Court.

The story of Black's political career which comprises the major portion of this volume is that of an Alabama Democrat who with Klan support won election to the United States Senate in 1926 successfully challenging the politically powerful Bankhead family.

He grew into young manhood during the period of Populist tumult of the 1890's and the Progressive period. Black may have been influenced to some extent in his social and political philosophy from these movements. During his tenure as a police judge, solicitor for Jefferson County, and as a practicing lawyer, he always exhibited sympathy and feeling for those less fortunate.

Elected to the Senate during the period of Republican ascendancy, Senator Black did not attract much attention until the Democratic victory in 1932. As a senior member of the majority party, he gained national prominence through his investigations of air-mail contracts, the ocean mail subsidy program, opposition to the anti-lynching bill, investigation of the utility lobbyists, and advocacy of the thirty-hour work week to relieve unemployment.

His progressive record in the Senate and support of New Deal measures attracted the attention of President Roosevelt. When he was appointed to the Supreme Court considerable criticism was aroused over the fact that he had once been a member of the Ku Klux Klan. This he did not deny.

In an unprecedented broadcast over three networks Justice Black spoke for eleven minutes. "He affirmed his belief in the religious guarantees of the Bill of Rights and insisted that his Senate record refuted every implication of intolerance." If there is one explanation for Black's membership in the KKK it is simply that in the decade of the 1920's in Alabama no politician could hope to be elected to public office without membership in or support by the Klan. The author has made extensive use of oral history and the remainder of the bibliography is thorough. The index is excellent and the format is attractive

with several pages of pictures. Historians and the public await the volume on Justice Black's career on The Supreme Court.

Hugh D. Reagan
Auburn University

NOTES

A new and comprehensive edition of the papers of Andrew Jackson is in preparation under the sponsorship of The Ladies' Hermitage Association, The University of Tennessee at Nashville, the Tennessee Historical Commission, and the National Historical Publications Commission.

In this work we are making an effort to locate all extant Jackson letters and documents, not only those written by him but those written to him as well. We would appreciate anyone possessing such materials to allow us to obtain xerox copies of them for which, of course, we will pay all costs of photoduplication and postage and credit the owner of the originals in the published volumes.

Please address acknowledgments to:

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